

Publication Draft Representation Form 2014

For Official Use Only
Person ID:
Rep ID:

This consultation stage is a formal process and represents the last opportunity to comment on the Council's Local Plan and accompanying Sustainability Appraisal (SA) before it is submitted to the Secretary of State. All comments made at this stage of the process are required to follow certain guidelines as set out in the **Representation Form Guidance Notes** available separately. In particular the notes explain what is meant by legal compliance and the 'tests of soundness'.

This form has two parts:

- **Part A – Personal Details**
- **Part B – Your Representations**

If you are commenting on multiple sections of the document, you will need to complete a separate Part B of this form for each representation on each policy.

This form may be photocopied or alternatively extra forms can be obtained from the Council's offices or places where the plan has been made available (see the table below). You can also respond online using the Council's e-Consultation System, visit: www.warwickdc.gov.uk/newlocalplan

Please provide your contact details so that we can get in touch with you regarding your representation(s) during the examination period. Your comments (including contact details) cannot be treated as confidential because the Council is required to make them available for public inspection. If your address details change, please inform us in writing. You may withdraw your objection at any time by writing to Warwick District Council, address below.

All forms should be received by **4.45pm on Friday 27 June 2014**

To return this form, please deliver by hand or post to: **Development Policy Manager, Development Services, Warwick District Council, Riverside House, Milverton Hill, Leamington Spa, CV32 5QH**
or email: newlocalplan@warwickdc.gov.uk

Where to see copies of the Plan

Copies of the Plan are available for inspection on the Council's web site at www.warwickdc.gov.uk/newlocalplan and at the following locations:

Warwick District Council Offices , Riverside House, Milverton Hill, Royal Leamington Spa
Leamington Town Hall , Parade, Royal Leamington Spa
Warwickshire Direct Whitnash , Whitnash Library, Franklin Road, Whitnash
Leamington Spa Library , The Pump Rooms, Parade, Royal Leamington Spa
Warwickshire Direct Warwick , Shire Hall, Market Square, Warwick
Warwickshire Direct Kenilworth , Kenilworth Library, Smalley Place, Kenilworth
Warwickshire Direct Lillington , Lillington Library, Valley Road, Royal Leamington Spa
Brunswick Healthy Living Centre , 98-100 Shrubland Street, Royal Leamington Spa
Finham Community Library , Finham Green Rd, Finham, Coventry

Where possible, information can be made available in other formats, including large print, CD and other languages if required. To obtain one of these alternatives, please contact 01926 410410.

Part A - Personal Details

	1. Personal Details*	2. Agent's Details (if applicable)
	<small>* If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in section 2.</small>	
Title	Mr	Mr
First Name	Karl	John
Last Name	Hallows	Sneddon
Job Title (where relevant)	Development Director	Managing Director
Organisation (where relevant)	Methodist Homes	Tetlow King Planning
Address Line 1	c/o Agent	Unit 2, Eclipse Office Park
Address Line 2		High Street
Address Line 3		Staple Hill
Address Line 4		Bristol
Postcode		BS16 5EL
Telephone number		0117 9561916
Email address		all@tetlow-king.co.uk

3. Notification of subsequent stages of the Local Plan

Please specify whether you wish to be notified of any of the following:

- | | | |
|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------------|
| The submission of the Local Plan for independent examination | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| Publication of the recommendations of any person appointed to carry out an independent examination of the Local Plan | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| The adoption of the Local Plan. | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

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Part B - Your Representations

Please note: this section will need to be completed for each representation you make on each separate policy.

4. To which part of the Local Plan or Sustainability Appraisal (SA) does this representation relate?

Local Plan or SA:

Local Plan

Paragraph Number:

5.159

Policy Number:

HE2 - Protection of Conservation Areas

Policies Map Number:

5. Do you consider the Local Plan is :

5.1 Legally Compliant?

Yes

No

5.2 Complies with the Duty to Co-operate?

Yes

No

5.3 Sound?

Yes

No

6. If you answered no to question 5.3, do you consider the Local Plan and/or SA unsound because it is not: (please tick that apply):

Positively Prepared:

Justified:

Effective:

Consistent with National Policy:

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7. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to cooperate, please also use this box to set out your comments.

Please refer to the separate sheet attached to this submission

Continue on a separate sheet if necessary

8. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7. above where this relates to soundness. (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Please refer to the separate sheet attached to this submission

Continue on a separate sheet if necessary

Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage. **After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.**

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9. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?

No, I do not wish to participate at the oral examination



Yes, I wish to participate at the oral examination

10. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

Continue on a separate sheet if necessary

Please note: This written representation carries the same weight and will be subject to the same scrutiny as oral representations. The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

11. Declaration

I understand that all comments submitted will be considered in line with this consultation, and that my comments will be made publicly available and may be identifiable to my name/organisation.

Iain Warner

Signed:

on behalf of Tetlow King Planning

Date :

27 June 2014

Copies of all the objections and supporting representations will be made available for others to see at the Council's offices at Riverside House and online via the Council's e-consultation system. Please note that all comments on the Local Plan are in the public domain and the Council cannot accept confidential objections. The information will be held on a database and used to assist with the preparation of the new Local Plan and with consideration of planning applications in accordance with the Data Protection Act 1998.

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REPRESENTATIONS IN RESPECT OF DRAFT POLICY HE2

7. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

We consider that whilst the overall objectives of draft policy HE2 and its supporting text are generally consistent with the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance (PPG) there are certain parts of it that exceed the requirements set nationally. National guidance relating to specific development with Conservation Areas is set out within the Planning (Listed Buildings and Conservation Area) Act 1990. Paragraph 72(1) of the 1990 Act states that:

“In the exercise, with respect to any buildings or other land in a conservation area, of any [functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.” [my emphasis]

National guidance is therefore clear that the tests are not mutually exclusive and that developments are not required to preserve and enhance the character and appearance of the area. In accordance with national policy it is sufficient for a scheme to demonstrate that it preserves the character of an area for it to comply with national policy.

Set against this, the wording of Policy HE2 states that there is a presumption in favour of retaining any unlisted building within a conservation unless any replacement building can demonstrate that it will preserve and enhance the conservation area. It further states that the demolition of unlisted buildings will only be granted where any replacement will preserve and enhance the Conservation Area. It finally states that any new development within a Conservation Area shall make a positive contribution to the local character and distinctiveness.

These requirements conflict with the national guidance on the basis that the tests are greater than those set out within national planning guidance. It is on this basis that we consider the present wording of the draft policy is unsound in that it is not consistent with national policy. This conflict has previously been brought to the Council’s attention in respect of a planning appeal relating to the proposed redevelopment of the site known as Homewood, Kenilworth Avenue (appeal ref: APP/T3725/A/12/2186672). In this appeal the Inspector clearly noted concerns with the wording of the current policies within the adopted Local Plan insofar as they related to development within Conservation Areas (DAP8) and replacement buildings within a Conservation Area (DAP9). The relevant sections of that decision are set out in paragraphs 6 and 7 quoted below:

“6. The appeal site lies in the Leamington Spa Conservation Area, to which Local Plan policies DAP8 and DAP9 are relevant. The overall objectives of those policies are consistent with the *National Planning Policy Framework* [NPPF]. However, they contain specific requirements which exceed the requirements of the NPPF, and indeed exceed the statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.” [Inspector’s emphasis]

“7. Examples are the requirements in DAP8 for development to *preserve or enhance the special architectural and historic interest and appearance of Conservation Areas*, and in DP9 for a replacement building to *bring about a genuine qualitative improvement to the*

Conservation Area if permission is to be granted for the demolition of an unlisted building.”
[Inspector’s emphasis]

Clearly, despite these concerns with a conflict between National policy and local policy the Council have sought to use similar wording in the emerging plan, which has sought to merge policies DAP8 and DAP9 into a single policy.

8. Please set out what modification(s) you consider necessary to make the Local Plan legally compliant or sound, having regard to the test you have identified at 7 above where this relates to soundness. (Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

As stated above, we consider that the approach within policy HE2 and its supporting text is general compliant with national policy, and that only minor rewording is necessary to make the policy sound. The proposed rewording of the policy will not change the particular emphasis of any element but will provide developers with greater certainty over the approach adopted by the Council when considering proposals for redevelopment within Conservation Areas in line with adopted national policy. In order to address the soundness concerns we would propose that the wording of draft policy HE2 is revised to the following (the deleted text is struck out and the proposed replacement text is in bold):

HE2 Protection of Conservation Areas

Development will be expected to respect the setting of Conservation Areas and important views both in and out of them.

Applications for changes of use which cannot be achieved without unsympathetic alterations will not be permitted.

Alterations or extensions to unlisted buildings which will adversely affect the character, appearance or setting of a Conservation Area will not be permitted.

There will be a presumption in favour of the retention of unlisted buildings that make a positive contribution to the character ~~and~~ **or** appearance of a Conservation Area.

Consent for total demolition of unlisted buildings will only be granted where the detailed design of the replacement can demonstrate that it will preserve ~~and~~ **or** enhance the Conservation Area.

New development within Conservation Areas should make a positive contribution to the local character ~~and~~ **or** distinctiveness of the Conservation Area.

Measures will be taken to restore or bring back into use areas that presently make a negative contribution to Conservation Areas.

We consider that the proposed changes to the wording of the draft policy, whilst of a very minor nature and without affecting the general approach of the policy, will ensure that this is compliant with the national tests for considering development within or affecting Conservation Areas. Without the proposed revisions we consider that the policy remains unsound and would provide uncertainty when determining applications due to the conflict between local and national policy.