

**These representations are made by Bernard Hollis, of [REDACTED]**

**Reference Warwick District Council's Local Plan  
in respect of Process**

**Where the council has been going wrong**

It is my view that the processes undertaken in the course of the preparation of the Local Plan by Warwick District Council denied the public, councillors and other consultees genuine participation in the plan making process by:

ignoring representations and/or delaying the council's responses to the representations until the Plan had moved forward irrevocably;

using delay of consideration of representations as a tool to enable pre-empting of the Local Plan by enabling developers and landowners to submit applications for development of the southern areas, to which numerous and serious objections and representations have been lodged and not resolved; and

operating a regime where the threat of "pre-determination" was used in contravention of the spirit of the Localism Act 2012 as a means (unintentionally or not) of quelling proper debate in council on planning issues.

In particular:-

**By omission or neglect the council's planning team failed to enable elected members the opportunity to give proper and timely consideration to representations made to the council by residents and other interested parties.**

In response to the consultation which took place in July 2013, members were evidently only afforded the opportunity to see summaries of the representations in March 2014 (nearly eight months later) at the same meeting that they were being asked to approve/adopt the Local Plan. Since it is the role of "officers to recommend and members to decide" such a process does not provide an adequate or satisfactory means by which members would be able to decide on the representations or enable them to influence how they should be treated. Furthermore, with such a process it is impossible for those who have made representations to be confident that any consideration could have been given to satisfying their concerns in the subsequent iteration of the Plan.

**Delaying consideration of the objections and representations allowed the Council's Officers to press on with master planning for the areas south of Warwick, Leamington and Whitnash in the face of the objections.** By doing so they by-passed the concerns of the objectors and those making representations. From the evidence of the proposals in the attached copy of the memo dated 2<sup>nd</sup> November 2013 from the Chief Executive to Glen Langham, Planning Director at Gallaghers, appended as Appendix 1 we can see no evidence in the draft master plan which is the subject of this proposal to developers that proper consideration has been given to shortcomings of the draft Plan that were identified in objections and representations the previous July. This could be interpreted as the council engaging with and making deals with the developers/landowners whilst not engaging with other interested parties.

**Delaying consideration of the new ONS statistics on population growth.** This

will have a significant effect on:

- i the already disputed estimates of the five years housing supply - the consequence of which is that it would bring forward its achievement; and
- ii on the predictions of housing need over the Plan period - the consequence of which is that substantially less homes will be required to cater for the district's future needs and so less precious agricultural land would be needed to be developed.

**Consistent use of "pre-determination" as a means of quelling healthy debate of planning matters amongst elected members.** This is in contravention of the intent set out very clearly in the plain English Guide to the Localism Act 2011 which stressed the importance of members being able to express their views on planning matters stating "The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on." (Appendix 2)

It is my view that by failing to comply properly with the requirements which are outlined above the Council has not followed the correct processes and has not properly engaged with its consultees. This in itself has led to a great deal of dissatisfaction amongst community and campaign groups over the ways that their legitimate concerns have been treated. It is my view that adopting these approaches the Council has not had in mind the fair treatment of community representations, and may have opened itself to the possibility of legal challenge about the processes it has used. This action would finally confirm whether the process has been legally compliant.

It can be appreciated that while officers of the council continue to follow the sorts of processes which this representation highlights there is little chance that the faith and trust that is so much needed between the groups, residents and the council will be re-established.

# Appendix 1 Copy of Warwick District Council Chief Executive's memo dated 2nd November 2013 to Glen Langham, Planning Director, Gallaghers

*C E Follow*

Andrew Haggitt

From: Chris Elliott  
Sent: 02 November 2013 12:30  
To: Glen Langham  
Cc: Chris Elliott; Dave Barber; Tracy Darke  
Subject: Note for Developers/Landowners of Southern Development Sites in Warwick Local Plan  
Importance: High

Dear Glen,

I believe that you may be hosting or co-ordinating a meeting next week of the developers/landowners involved with the southern development sites set out in the Revised Development Strategy for Warwick District, consulted upon this summer.

I thought it might be useful for your meeting to have an update on thinking from the District Council. You will appreciate that this is only officer's views and does not of itself represent the policy of the Council. The views are offered as part of a process of offering advice at pre application stage. I trust therefore that you will circulate this e-mail to your colleagues on this basis.

## 1. Progress on the Local Plan

A report is to be presented to the Executive of the Council on 13<sup>th</sup> November seeking permission to go out to consultation on specific sites for development in the villages. It is intended that a similar report will be presented to the Executive in January 2014 in respect of sites for Gypsies and Travellers. Notwithstanding the imminent publication of the Joint SMHA it is still our intention to take a draft Submission version of the Local Plan for approval for consultation in March/April 2014. From then we'd expect the Inquiry later in that year and then final approval by May 2015. Members will be involved in a series of meetings to help shape the final version of the Local Plan over the next few months. They will be briefed next week in advance of publication of the Jt SMHA the week beginning 11th November.

## 2. Progress on the Master Plan

Work is progressing as set out in Dave Barber's note that you had a few weeks ago

Our thoughts on the shape of the master plan are based on the following elements:

- \* Inclusion of the existing Myton School site for redevelopment for housing along with the land to the south which was subject to an application that was withdrawn. The intention is that this would with, the existing Myton area to form a new and distinctive neighbourhood "Myton Garden Village". In this area we'd anticipate largely housing area with open space based on the garden city prospectus we have promoted as well as roads/footpath/cycleway linking via the school site Myton Road, Europa Way and Gallows Hill with the potential to make the existing Myton Road a quieter slower road than the thoroughfare it is now.
- \* Development of that part of the County Council's land (8 to 10 hectares) fronting onto Gallows Hill for B1 and B2 uses to provide for future employment needs and to provide a balance that has always been the core of garden city principles. Our calculations are that a site of this size could accommodate 1 million sq. ft. We are also thinking of identifying this site as a Local Enterprise Zone via a Local Development Order and short term rate free or reduction period to encourage take up.
- \* Development of the remainder of the County Council owned land to the north of the employment area as the relocated Myton School plus 6th Form facility, primary school, medical centre, local shopping facility, relocated Leamington Football Club and car parking (sharing sports facilities with the school), relocated Leamington Fire Station (land only), community facilities, relocated all weather pitch, relocated athletics track, relocated shared sports hall, and hotel/pub/restaurant, possible Enterprise Centre. Playing fields for school/training pitches for the football club to be provided via shared use of pitches on Harbury Lane. The School, Football Club and WDC have commissioned work to assess this as an option along with other options for the school in order for the school to reach a view on its way forward by the end of November. It remains an option for the retention of the existing Myton School with a 6th Form facility on land to the south and for the primary school, medical centre and other new uses described above to be provided between the County Council and the landowners to the north.
- \* The advantage of focusing the employment/education/community/sports uses on the County Council is its location as near as it is possible to be at the epicentre of the overall development thus facilitating wide ranging access by foot, cycle, bus and car. By doing so it has the opportunity to create a dynamic hub for a series of new communities. It also avoids locating commercial development on land to the south of Gallows Hill that has proved more sensitive to development in terms of affecting the historic setting of Warwick and archaeological matters on site. If the area to the south of Gallows Hill is to be developed then it ought to be for housing.
- \* The development of a new residential neighbourhood - "Castle Park" with open space along the Tach Brook linked by footpath/cycleway to the proposed country park to the east of Europa Way, south of Harbury Lane, measures to mitigate the impact on the historic setting of Warwick, archaeology finds and footpath/cycleway links to the north to the employment/education/community hub. A park and ride facility off Europa Way would be sought as this would be the furthest southern point of development but would require a new roundabout. To ensure on-going resources to fund/maintain the facility we'd contemplate a petrol filling station, small convenience store, car wash etc, which could also serve the Castle Park housing area.
- \* The development of a new neighbourhood area - "Lower Heathcote" south of Harbury Lane between Europa Way and Tachbrook Road with a new country park along the Tach Brook with footpath/cycleway links to the east and west and within the housing areas, two primary schools and one district shopping centre and a link road through. A site for a new Secondary School is not now being required.
- \* The rounding off of Warwick Gates via the implementation of the recent consent for housing and the rounding off of Whitnash via the development of the Woodside Farm site. The latter to have footpath/cycleway connections to link to the proposed country park west of Tachbrook Road and to enable east/west access to the Harbury Lane recreation area and to link into Whitnash to the north. To note the Whitnash community is looking via its neighbourhood plan to enhance its local community facility.

Some infrastructure issues will also be relevant to the site at the bottom of Golf Lane and south of Champion School.

## 3. Infrastructure Provision

State aid is not an issue if we do forward fund infrastructure along as the beneficiaries are not just economic one, i.e. developers. There has to be a public benefit, improvement to roads, provision of schools, etc, not just building of houses.

Our Finance people have developed a model to see if it is affordable on the basis of agreeing the infrastructure up front and it being paid back by a rooftop tax approach under Section 106 agreements. However, the information we need to have is some reasonable ideas of house building rates probably at a number of levels to test sensitivity and to help take account in variations in the housing market over a number of years. The sooner we have that the better.

Additionally our view is that the rooftop tax should take account of the opportunity cost impact of some landowners giving up land for lower land use values whereas some won't. A working assumption is that developable land for non residential uses should be costed in to the rooftop tax. This overcomes the need for complex land equalisation agreements between you all but will provide fairness in sharing values. Where the land has a commercial value but not a residential one then it is the difference between the two that needs to be catered for in the rooftop tax. Landowners then having to give up land for lower use values or indeed for free then in effect are compensated via reduction in the rooftop tax equivalent to the land values that would otherwise have been obtained or the difference between housing and a commercial use; or we simply agree to give the estimated value back at an agreed point in time. Your views on this approach would be welcomed.

It has become clear that given the number of sites involved we need to find a way to guarantee the sites for education provision in order not to forestall development. It would seem sensible then that when applications come forward for development which have the sites for school uses that if agreed for consent then the Section 106 will have to give over the sites to the education authority to guarantee their availability. This may also apply to the other community land uses required.

We have now information on tipping points for education provision though not yet for highways which are the two most critical infrastructure issues. The Highways people will need to update their work to take account of these revisions and are looking at updating their overall approach to impact on the highway network, though this may well take some time. A report on air quality in Warwick and Leamington town centres has been published. Similarly historic landscape impact work on the land south of Gallows Hill is being undertaken.

I hope this is helpful and I will look forward to your views and we will update the actual master plan before the end of November once we have all of the relevant information, including that from yourselves.

Kind regards

Chris Elliott  
Chief Executive

## **Appendix 2 A plain English guide to the Localism Act DCLG November 2011**

Clarifying the rules on predetermination In parallel with the abolition of the Standards Board, the Government has used the Localism Act to clarify the rules on 'predetermination'. These rules were developed to ensure that councillors came to council discussions - on, for example, planning applications - with an open mind. In practice, however, these rules had been interpreted in such a way as to reduce the quality of local debate and stifle valid discussion. In some cases councillors were warned off doing such things as campaigning, talking with constituents, or publicly expressing views on local issues, for fear of being accused of bias or facing legal challenge.

The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on.