

New Local Plans
Neighbourhood Plans,
Warwick District Council,
Riverside House,
Milverton Hill,
Royal Leamington Spa,
Warwickshire,
CV32 5HZ

BY EMAIL: newlocalplan@warwickdc.gov.uk

26920/A3/RPP/MXS

21st July 2017

Dear Sir or Madam,

**SUBMISISON OF REPRESENTATIONS TO THE BAGINTON AND BUBBENHALL DRAFT
NEIGHBOURHOOD PLAN 2017-2029**

We write on behalf of our Client, Coventry Airport Ltd, to submit further written representations to the Baginton and Bubbenhall Neighbourhood Plan.

Coventry Airport is located to the south east of Baginton village and lies in the northern half of the designated Neighbourhood Plan Area. Coventry Airport are a key stakeholder in the area and therefore this Neighbourhood Plan.

**Previous Representations made on the Baginton and Bubbenhall Draft Neighbourhood Plan
December 2016.**

Representations were made to the Baginton and Bubbenhall Draft Neighbourhood Plan on 19th December 2016, and we attach these to this submission for your reference. These representations recommended changes be made to Draft Objective 7, General Policy 6 and Policy BAG 7, so that the Neighbourhood Plan provided a much more balanced approach when looking at employment growth and opportunities.

The previous representations were sent in time, to the correct e-mail address at 11.25am on 19th December 2016. We attach the email for your reference. The email address has also been checked against the contact details set out on page 72 of the Consultation Statement which shows a screen shot of the previous consultation webpage (Appendix IX), which again confirms it was sent to the correct email address.

Page 9 of the Consultation Statement only refers to a single local land owner/developer, Swords, who supported Policy BAG1 - Land north of Rosswood Farm for development for around 35 new houses (H19). The reference to 35 new houses is incorrect as the Main Modifications to the Draft Warwick Plan (to address the identified issues of soundness) which was consulted on between 11th March and



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22nd April 2016 increased this to 80 dwellings. The Main Modifications consulted on between 17th March and 5th May 2017 (i.e. before the publication of this Neighbourhood Plan) kept the figure of 80 dwellings for the allocation H19. It may have been that the representations received was incorrectly written but the Consultation Statement should have set out if anything was done to rectify this.

We received an email on 17th July 2017 from the Bubbenhall Parish Clerk confirming that the email had been send to the correct email address but the representations could not be located and therefore not considered as part of previous Neighbourhood Plan consultation in December 2016. On the basis that the previous representations have not been considered, the published Consultation Statement is therefore deficient and this amounts to a serious procedural breach on the part of the Parish Council.

However, provided that modifications are made to the Submission Version (including significant text changes) then we are of the view that the correct position can be reached that the Neighbourhood Plan meets the basic conditions.

The wording for **Objective 7 (Commercial/Industrial Development and Employment)** continues to state:

“To ensure that existing businesses operate in an environment that promotes their important community role, and to support new rural enterprises, appropriate small businesses and home working, provided they do not have an unacceptable impact on local residential amenity and the natural or historic environment.”

This still reads that the Neighbourhood Plan only supports the creation of small business within the Neighbourhood Plan area. As we have stated previously, whilst small enterprises should be encouraged generally across all parts of the District, no one area should depend on these types of employers/businesses to be able to provide secure and viable employment opportunities. The Neighbourhood Plan should recognise the location of the Area adjacent to Coventry City and existing and proposed areas of employment, and the importance of providing opportunities to retain, expand and create new jobs.

General Draft Policy G6 (Additional Business Premises and Employment Opportunities), has now been amended to **General Draft Policy G5**. There have been no amendments to the text and this policy continues to support new local employment opportunities within Baginton and Bubbenhall only, subject to criteria which, when read restrict employment growth. Coventry Airport Ltd as an existing commercial/employment enterprise, object to the restriction on employment growth as proposed in the Neighbourhood Plan.

Draft Policy BAG7 (Commercial and Industrial Development and Employment) in the current consultation draft sets out that:

“Employment related development appropriate to Baginton’s location will be supported to ensure the Parish remains a sustainable and attractive residential area.

Investment which supports local job creation at Middlemarch is encouraged, in terms of expansion of existing businesses and attracting new enterprises wishing to locate in and around the village.

New employment related development should contribute positively to the local community in Baginton and should not impact adversely on residential amenity and the quality of life enjoyed by residents or the built and natural environment of Baginton and its surroundings.”

The wording in the first paragraph has been amended as it previously referred to ‘Employment related development appropriate to Babington’s location as a rural area washed over by the Green Belt will

be supported to ensure the Parish remains a sustainable and attractive residential area'. References to the Green Belt and rural area has now been removed.

The amendment removing reference to the Green Belt does little as there is a separate Green Belt Policy (GP3) which we discuss further in this representation. The removal of 'rural area' appears to suggest that there is some level of acceptance that the general character of the area is now, which is something we pointed out in our previous representations. However, this single change still makes this is a restrictive policy as it refers only to employment development in the villages and new development in the Middlemarch Business Park.

Moreover, there has been no assessment in respect of viability, in accordance with the PPG paragraph: 005 Reference ID: 41-005-20140306:

"Must a community ensure its neighbourhood plan is deliverable?

If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened."

In light of the absence of a robust evidence base to support the policy, in particular, the failure to have regard to the emerging Local Plan's site-specific allocations, this policy does not meet the basic condition 8(2)(e), and should be deleted.

The Basic Conditions

We have undertaken a review of the supporting information as well as the Neighbourhood Plan, including the Consultation Statement and the Conditions Statement.

The Consultation Statement is one of the legal requirements for a qualifying body to submit as set out in the Neighbourhood Planning (General) Regulations 2012 part 5 15. It is defined as a document which –

"(a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
(b) explains how they were consulted;
(c) summarises the main issues and concerns raised by the persons consulted; and
(d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan."

The core "basic conditions", against which the Examiner will assess the Neighbourhood Plan, once appointed following completion of the current consultation are set out in paragraph 8(2) of Schedule 4B:

"(2) A draft order meets the basic conditions if—

(a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order,

...

(d) the making of the order contributes to the achievement of sustainable development,
(e) the making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
(f) the making of the order does not breach, and is otherwise compatible with, EU obligations..."

As part of demonstrating that the Neighbourhood Plan meets basic condition 8(2)(a), the Conditions Statement sets out in a table the draft Neighbourhood Plan policies and corresponding adopted Local Plan Saved policies and the Draft Local Plan policies.

Draft Policy GP3 Green Belt states:

“Inappropriate development in the Green Belt in the Parishes will not be permitted unless very special circumstances can be demonstrated.

Appropriate proposals within, or conspicuous from the Green Belt, must not be detrimental to the visual amenity of the Green Belt, by virtue of their siting, materials or design.”

In our view, the first part of the Policy G3 duplicates existing local policy, is redundant and could serve merely to confuse and should be deleted wholesale. The wording of the second sentence of the draft policy applies an impermissible gloss on the NPPF Green Belt policy, inventing new tests such as *“conspicuous from the Green Belt”* which do not concur with national policy and have not been properly evidenced. It also contradicts the proposed Draft Sub-Regional Employment Allocation DS16 (Gateway) as set out the Draft Local Plan. This is because the site is proposed to be removed from the Green Belt as part of the Local Plan process and so would be visible from the Green Belt, so will have some level of visual impact. On this basis, the policy does not meet basic condition 8(2)(a), basic condition 8(2)(d) and basic condition 8(2)(e) and should be deleted.

Policy G5 Additional Business Development sub-paragraphs 1 to 5 are very vague. Sub-paragraph 1 does not provide a hard-edged test in respect of what “maintain amenity” means, sub-paragraph 2 sets an absolute test of no loss, but does not define “open space”, sub-paragraph 3 does not define “adequate provision” for parking, sub-paragraph 4 (which is key) sets an unrealistic test of *“small-scale expansion of existing sites”*. Finally, sub-paragraph 5 refers very broadly to “no adverse impacts”. The draft Policy does not meet basic condition 8(2)(a), basic condition 8(2)(d) and basic condition 8(2)(e), based on criteria number 4 in the policy. The policy states:

“The development of new local employment opportunities will be supported within Baginton and Bubbenhall providing that:

...

(4) They are located within the settlement boundary of the villages, or comprise the redevelopment of or small-scale expansion of existing sites, or involve the sympathetic re-use of existing rural buildings;”

The policy text in our opinion is vague and without evidence and we would advise that it is deleted by way of modification under paragraph 10(2)(b) and (3) of the Regulations.

This clearly contradicts draft allocation DS16 in the Draft Warwick Local Plan, as the allocation is outside the villages settlement boundary and will support the creation of new employment opportunities. Draft Policy EC1 of the Warwick Local Plan provides the framework for managing employment in rural areas. Despite the allocation, the land, based on the Draft Warwick Local Plan allocation is located within the defined rural area.

Also, a point to note is the fact that the current Neighbourhood Plan consultation document does not update text around the progress of the Draft Warwick Local Plan sufficiently. Since the last consultation in December 2016, there has been a further round of Proposed Modifications made by the Council which closed for consultation on 5th May 2017. Overall amendments to policies were generally small scale or re-worded to strengthen the policy.

Whilst not on the Council’s website, we understand from speaking to the Programme Officer that the Inspector is due to complete his Report on the Draft Warwick Local Plan by the end of this month,

and he is not seeking to re-open the Examination following the latest set of Main Modifications made. We expect the Warwick Local Plan to be adopted this summer.

In respect of conformity under basic condition 8(2)(e), it is imperative that the Neighbourhood Plan should be examined against the draft policies in the Local Plan. We would also advise that Warwick District Council should schedule any Examination to commence only after adoption of the Local Plan, given that the timetable as set out above.

The PPG at paragraph 044, provides the following guidance on Neighbourhood Plans meeting the basic conditions:

“The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in the Local Plan, plan positively to support local development and should not promote less development than set out in the Local Plan or undermine its strategic policies (see paragraph 16 and paragraph 184 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the Local Plan.”

The Neighbourhood Plan should refer to the Warwick Local Plan process given that there is a residential allocation in Baginton Village and the Sub-Regional Employment Allocation DS16 within the Neighbourhood Plan boundary. It does refer to the allocation in paragraph 2.9 and the previous Gateway development scheme which was refused planning permission (this site is now the allocation in DS16) for reasons including that the proposals would prejudice the outcome of the Local Plan and that the proposal would have an adverse impact on the openness of the Green Belt. It also sets out that there is some uncertainty on the future of the Gateway scheme. Paragraph 2.15 still reads as though the Neighbourhood Plan does not support the fact that the DS16 allocation will remove the land from the Green Belt, to allow commercial development to be located on site.

A further paragraph which should be updated as part of the current consultation is 2.10, which refers to the Whitley South scheme, which was granted planning permission on 10th July 2017. This development was determined prior to the Draft Warwick Local Plan being adopted, so the application was referred to the Secretary of State; who did not call-in the application. We would expect this development to be coming forward in the near future in order to meet the operational requirements of JLR.

The Neighbourhood Plan refers in the last sentence to ‘*the Parish Councils continue to support the view that the land south of Coventry is not developed to maintain the openness and effectiveness of the Green Belt and protect against urban sprawl in accordance with the NPPF*’. This statement demonstrates that the Neighbourhood Plan does not want to support development to the land south of Coventry despite the permission for JLR and significantly, the DS16 in the Warwick Local Plan (which has reached an advanced stage), removing the land from the Green Belt to allow necessary development to proceed. This also appears to contradict Draft Policy DS NEW 1 Directions for Growth South of Coventry which is seeking to undertake an early review of the Local Plan (within five years of adoption) for this area, to address any additional evidence regarding the need and potential for development in this area. The Neighbourhood Plan does not currently meet basic condition 8(2)(a), basic condition 8(2)(d) and basic condition 8(2)(e).

Based on the above points raised, we do not consider that the Baginton and Bubbenhall Neighbourhood Plan meets the requirements of Neighbourhood Plans to meet the basic conditions.

Our Client's representations made previously, have not been acknowledged or considered, and therefore concerns from a major stakeholder have not been taken in to account. The Neighbourhood Plan remains overly restrictive to development despite the proximity of Coventry City, the major JLR facilities and existing employment floorspace, and Sub-Regional Employment allocation in the Draft Warwick Local Plan.

The Draft Neighbourhood Plan continues to set out its opposition to development on land south of Coventry, which is in direct conflict with strategic policies in the Draft Warwick Local Plan - which itself has reached an advanced stage – and further planning permissions issued on 10th July 2017 (i.e. this is a commitment).

It is our view the Baginton and Bubbenhall Neighbourhood Plan fails to meet the requirements of a Neighbourhood Plan, including the basic conditions in particular with regards to the following policies:

- (a) Policy G3
- (b) Policy G5
- (c) Policy BAG7

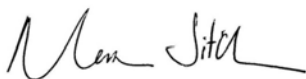
Given the above, a hearing pursuant to paragraph 9(2) is essential in the present case, to ensure adequate examination of the issues and that Coventry Airport Ltd has a fair chance to put a case forward.

The Airport is a key stakeholder in the Parish, with an important strategic allocation. There has been no viability assessment, no technical assessment of the employment impact of the wording of the above policies and limited consideration of them by the Local Planning Authority. In these circumstances, a focussed examination hearing on Policies G3, G5 and BAG7 would assist a structured discussion of these issues.

The documents referenced, in addition to the original representations which are attached, can be provided in hard copy following the close of the consultation should they be requested.

We would be grateful if you would acknowledge receipt of our representations on the Neighbourhood Plan. In the meantime, if you require any clarification of the above please do not hesitate to contact either Renu Prashar Prinjha or myself.

Yours faithfully,



Mark Sitch
Senior Partner

Encs - As above