



**WARWICK DISTRICT LOCAL PLAN  
PUBLICATION DRAFT  
REPRESENTATIONS  
ON BEHALF OF  
LENCO INVESTMENTS FOR  
LAND SOUTH OF COVENTRY AT  
BAGINTON**

27 June 2014

**Our Ref:JBB5797/C2566**

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# QUALITY MANAGEMENT

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# EXECUTIVE SUMMARY

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RPS Planning & Development Ltd (RPS) represents Lenco Investments which controls land on the southern periphery of Coventry City, adjacent to the Warwickshire Gateway employment allocation identified in the Draft Warwick District Local Plan.

RPS has set out objections to the current pre-submission consultation that identifies that the plan is currently unlawful and unsound on a number of counts.

The Plan is identified as **unlawful** on the basis of two key components.

1. The first unlawful objection raised is that Warwick District Council (the Council) has failed to comply with the statutory Duty to Cooperate requirements of Section 33(A) of the Localism Act 2011. This is on the basis that it has identified a significant level of employment at the Warwickshire Gateway sub-regional employment allocation without cooperative arrangements in place to address the implications of such an allocation.

Whilst Lenco Investments is fully supportive of the Gateway Site proposals, the identification of a sub-regional employment allocation will have a significant impact on the sub-region and local economy, and the associated needs to provide a balanced level of housing. However, there are no arrangements in place that demonstrate how the sub-regional employment allocation sits alongside other local sub-regional authorities' local plans or employment and housing strategies. Furthermore, no cooperation arrangements are set out by Warwick District or any other adjoining district, by way of development plan policy or Memorandum of Understanding on how this allocation will impact on adjoining authorities housing and employment land requirements. Section 2 of this report outlines more detail on this objection.

2. The second unlawfulness ground is that the Council has prejudicially discounted the land controlled by Lenco Investments from its option and appraisal process since 2007 and failed to comply with the Strategic Environmental Assessment Directive and the Environmental Assessment of Plans and Programmes Regulations (2004).

The Council failed to consider the site **fairly, equitably** and by **public scrutiny** on the basis that it claimed the site was unsuitable for development due to noise from Coventry Airport, and odour from the local sewage works. The Council has, however, never produced any noise or odour evidence to substantiate its position and only recently in 2014 did it acknowledge that the original assessment undertaken in 2009 was based on '*uncertain*' knowledge of the effects of both constraints. No evidence was therefore held or published to support the Council's position. RPS had, however, since 2009 provided the Council with firm evidence that both constraints did not preclude development, including dialogue with the Council's own Environmental Health Officers that confirmed RPS's position. RPS has also prepared and submitted Noise and Odour Assessments in liaison with the Environment Agency, Severn Trent Water, Coventry Airport and the Council's own Environmental Health Officers which demonstrate that the constraints do not precluded development on the land. However, despite the evidence presented to the Council, it has failed to adjust its stance on the site and maintained that it was unsuitable despite holding no evidence of its own to that effect.

RPS also engaged with the Council in respect of a smaller phase of the development promoted by Lenco Investments, including representations, the submission of evidence, and a meeting with Council officers. Again, no reference is made to these discussions or submissions (duly made) by RPS to the Council on this smaller component of the site, despite the Council Officers agreeing that the smaller component is suitable. The smaller component of the site is also absent from the latest Sustainability Appraisal SA Report, thus demonstrating that it has not been appraised **fairly, equitably** and by **public scrutiny** as a realistic alternative, despite being presented to the Council early enough through duly made representations.

On the basis of the above, the Council has failed to comply with the Strategic Environmental Assessment Directive and the Environmental Assessment of Plans and Programmes Regulations (2004) in the assessment of the site promoted by RPS which requires fair, equitable and public scrutiny. It has not been subject to any fair or equitable assessment, nor has it been subject to public consultation.

RPS considers that the two above failings of the Plan are substantial, particularly, the Council's disregard for the need to hold reasonable and proportionated evidence to make decisions in respect of the land controlled by Lenco Investments south of Coventry, coupled with no attempt since 2009 to rectify the position using information provided by RPS through duly made representations.

Notwithstanding the above two positions on the Plan's lawfulness, the Plan is also **unsound** on a number of counts.

Principally the Plan fails to plan for a level of housing that will support the local and sub-regional economic ambitions and allocations. The Warwickshire authorities have, within the Coventry and Warwickshire Local Economic Partnership Growth Strategy (2014), committed to plan for new homes based upon economic led strategies that balance the provision of homes and jobs. The Council has allocated a significant amount of new employment land, including a sub-regional employment allocation of 235ha of employment land and yet seeks to provide a level of new homes that falls short of its own demographic requirements, let alone the requirements of the sub-regional allocation. This does not balance the housing against its own local and sub-regional economic allocations and therefore fails to deliver on its own Plan Strategy and Objectives. It is not therefore meeting its objective assessment of housing need, nor delivering on its own Vision and Strategy.

In addition to the above, there are a range of other policies included in the Plan that seek to limit housing growth and detach the authority from the reality that it is planning for significant employment growth without providing for associated housing, in addition to making no arrangements for the provision of unmet housing need from elsewhere, particularly Coventry City. The Council is therefore both increasing housing need as a result of the Warwickshire Gateway allocation for itself and the sub-region, whilst also making no allowance for unmet need from adjacent neighbours, where it is already evident that capacity to accommodate housing does not exist. It is therefore not only failing to make provision for neighbouring authorities, but it is itself a catalyst for increasing housing within Warwick District and neighbouring authorities in the sub-region through the identification of a sub-regional employment allocation.

The Plan is therefore unsound on a number of counts.

Given the fundamental nature of the comments submitted by RPS it is requested that RPS is able to attend the examination hearings to present further oral evidence at the invitation of the Inspector.

# 1 INTRODUCTION

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- 1.1 RPS is been retained by Lenco Investments to represent its interests in the Warwick District Council Local Plan. This statement presents Lenco Investment's overarching response to the publication version of the Warwick Local Plan (2014). The format of this document responds to a number of proposed policies in the plan and provides a commentary on a number of wider objections to the manner in which the plan has been prepared.
- 1.2 Lenco Investment's interest comprises Land to the South of Coventry adjacent the Warwickshire Gateway proposals. The site's strategic context is illustrated in Appendix 1 which demonstrates also its context against the magnitude of the Gateway Site proposals. The land is a logical location, on the periphery of Coventry City and adjacent to the Warwickshire Gateway proposals.
- 1.3 As the Council will be aware, RPS has submitted duly made representations to all stages of the emerging Local Plan, and the now superseded Core Strategy since 2007. During this process RPS has also met with Council Officers Philip Clarke, Dave Barber and Sally Jones over the course of promoting the site.
- 1.4 RPS has also engaged in the Strategy Housing Land Availability Assessment (SHLAA) consultation process for Warwick District Council and has also made representations to the Coventry City Development Plan process in respect of cross boundary housing need.
- 1.5 In responding to this consultation, RPS is aware that the Council requires representations to be structured as set out in the standard response format. Appendix 4 contains a suite of competed standard response forms, appropriately cross referenced to the policy sections of this report.
- 1.6 The following sections of this report are structured as below:
- Section 2 sets out that the Council has failed to comply with the Statutory Duty to Cooperate;
  - Section 3 sets out that the Council has failed to comply with the Strategic Environmental Assessment Directive and the Environmental Assessment of Plans and Programmes Regulations 2004 by inappropriately excluding Lenco Investment's Land to the South of Coventry from assessment processes to date. Appendix 2 sets out a chronology of this failing;
  - Section 4 sets out objections to the Plan's Development Strategy;
  - Section 5 sets out objections to Policy DS6 and the level of housing need identified in the plan;
  - Section 6 sets out objections to Policy DS10 and the choice and location of new housing allocations in the plan;
  - Section 7 sets out objections to Policy DS19 and the manner in which the Green Belt has been addressed;

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- Section 8 sets out objections to Policy DS20 on the approach the Council has taken to addressing unmet need from adjoining authorities;
  - Section 9 sets out the suitability, availability and achievability of the Land South of Coventry for accommodating the needs of the District and neighbouring authorities;
  - Section 10 sets out the capacity of the development to deliver an early phased for the village of Baginton; and
  - Section 11 concludes that the plan is currently unlawful and unsoundly based.

1.7 This representation is also accompanied by a promotional document that has been submitted to the Council on numerous occasions illustrating the evidence and sustainability credentials of the site. This is contained in Appendix 3.

1.8 Appendix 4 contains a schedule of representation forms.

## 2 DUTY TO COOPERATE

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### Introduction

- 2.1 RPS does not consider that the Council has met its statutory Duty to Cooperate in respect of providing for sub-regional housing needs associated with the employment provisions of its own Plan.

### Context

- 2.2 The 2011 Localism Act requires that Local Authorities work together under the Duty to Cooperate (DtC) to meet objectively assessed needs for the area. In the interests of achieving sustainable development, Local Authorities are required to:

*“Engage constructively, actively and on an ongoing basis...in the preparation of development plan documents [relating to strategic matters]...which would have a significant impact on at least two planning areas”* (Localism Act: Section 110).

- 2.3 Warwick District Council must therefore provide evidence of cooperation on strategic issues throughout the plan making process otherwise the Local Plan cannot proceed to Examination in Public.

- 2.4 In the determination of appropriate needs for the District, Warwick District Council must work with neighbouring districts to define the cross boundary issues that affect them and work towards addressing them through the plan process. The recently published Planning Practice Guidance (PPG) offers additional clarification on conformity with the DtC:

***“Local planning authorities and other public bodies need to work together from the outset...to identify and assess the implications of any strategic cross boundary issues on which they need to work together ... Local planning authorities should bear in mind that failure to demonstrate compliance with the duty at the Local Plan examination cannot be corrected after the Local Plan has been submitted for examination. The most likely outcome of a failure to demonstrate compliance will be that the local planning authority will withdraw the Local Plan.”*** (PPG: 9-012-20140306)

- 2.5 On the basis of the above, where an authority identifies development needs that cannot be accommodated within its own administrative area, it must then work with its neighbours to address if and how that need can be met.

### Basis of Objection

- 2.6 As set out above, the Duty to Cooperate (DtC) requires local authorities to work together on strategic matters. Strategic matters is defined in the legislation as:

***“sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is***



***strategic and has or would have a significant impact on at least two planning areas”.***

- 2.7 It is noted that within this description no reference is specifically made to the DtC being limited just to housing need. However, the focus of Warwick District’s approach appears to be solely focused upon housing need generated from outside of Warwick District. Policy DS20 entitled ‘*Accommodating Housing Need Arising from Outside the District*’ confirms this, and is thus only concerned with housing needs arising from outside of the District.
- 2.8 However, RPS considers that there is significant unmet housing need arising within Warwick District that is as a result of a ‘*strategic matter*’ which has not been addressed as part of the Plan or the DtC. RPS considers that the strategic matter is the implication of the allocation of sub-regional employment land with no adequate DtC arrangements in place on employment land, jobs and housing associated with it.
- 2.9 Warwick District Council has identified a sub-regional employment allocation within its administrative boundary as set out in Policy DS16. However, there is no sign of co-operation on how this sub-regional employment allocation fits strategically into the employment provision of other neighbouring plans or how housing provision is provided for it within Warwick and sub-regional neighbours.
- 2.10 Paragraph 007 of the PPG sets out that development needs should be assessed based upon the relevant housing market area or functional economic market area in line with the duty to cooperate. It is therefore incumbent on the authority to establish employment provision in the context of the housing market area (Coventry and Warwickshire) and the functional economic market area in line with the DtC.
- 2.11 The authority has undertaken a degree of cooperation with respect to baseline evidence on housing need (albeit with no agreements in place on unmet need), however, when it comes to employment need there is no reference in the Plan or elsewhere by the authority on how this is being addressed. Warwick has allocated a sub-regional employment allocation of 235ha employment land with absolutely no DtC statement of how this strategic matter accommodates or links to the employment needs of the other sub-regional authorities, and in turn the implications of this for sub-regional housing.
- 2.12 In fact, there is silence on the strategic matter and yet the following is observed:
- The Gateway Site is a **sub-regional** employment allocation that is **over and above** the employment requirements for Warwick District;
  - Housing need generated by the Gateway Site is also **over and above** that associated identified in the Draft Warwick Local Plan;
  - The **2013 SHMA does not take into account** the level of housing need that will be required to support the sub-regional employment allocation in Warwick, or sub-region;
  - The Warwick Local Plan makes **no allowance** for homes to meet the needs of this allocation, particularly any of the additional jobs that are attributable to Warwick District;

- There is **no evidence** that any other authority in the Coventry and Warwickshire HMA is making provision for increased housing associated with the 8,200 additional jobs<sup>1</sup> being provided at the Gateway Site;
- There is **no agreement, Memorandum of Understanding** on which authorities' employment needs are being met by the Gateway Site;
- There are **no agreements, Memorandum of Understanding in place** that identify how the Gateway Site will be supported by housing in balancing employment and housing provision; and
- There is no statement from Warwick District on how the **sub-regional housing** need that will be generated by the sub-regional employment allocation in Warwick District will be met within Warwick or adjoining authorities.

2.13 In the context of the above, RPS is confident that the Council has misplaced its judgement on what the DtC requires of it. Warwick District Council believes that its role is one of accommodating unmet need from neighbouring authorities. RPS does not contest that this may be part of the case, particularly in respect of unmet need from Coventry. However, the authority has not understood that by allocating the sub-regional employment allocation, it is now itself a generator and catalyst of significant levels of employment and associated housing need, with no arrangements are in place to address this locally, or sub-regionally.

2.14 To have satisfied the DtC, RPS would have expected to see a Memorandum of Understanding setting out the cooperation and engagement that has taken place to ensure that the sub-regional allocation is adequately supported by Warwick and neighbouring authorities through commensurate levels of housing provision. At present nothing exists of this nature, nor is any reference made within the Plan. Instead all references are incorrectly only associated with Warwick potentially accommodating unmet housing need from other authorities.

2.15 RPS therefore is of the opinion that the Council has failed to understand the DtC in respect of the housing and employment needs generated by itself through the allocation of a sub-regional employment site.

2.16 As a result it has demonstrably failed to actively and constructively engage with neighbouring authorities to set out whose employment needs the sub-regional employment site, that it has allocated, is providing for, and how this is being balanced with housing within Warwick District and/or neighbouring authorities. This should also have included a Memorandum of Understanding of how this affects the recommendations of the current SHMA, to which it is at odds with.

### **Evidence**

2.17 RPS has, in other representations made to the Plan, identified that the Council's SHMA and the Coventry and Warwickshire Local Economic Partnership's (CWLEP) evidence and aspirations

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<sup>1</sup> Warwick Planning Committee June 2013 Committee Report

are seriously misaligned and not compatible. The CWLEP Growth Strategy promotes 94,500 jobs and the promotion of the Gateway Site. This is a level higher than supported in the 2013 Strategic Housing Market Assessment (SHMA). The SHMA levels of housing will only support 63,000 jobs, not 94,500 (SHMA Table 38 refers).

- 2.18 With regard to employment forecasts, Warwick District's forecasts indicate a requirement for 66ha of employment land to be supported by 12,800 homes. The Gateway Site is allocated for 235ha of employment land, which is significantly in excess of the 66ha supported by 12,800 new homes in the Draft Warwick Local Plan. The ratio of jobs to houses from the 66ha for 12,800 new homes applied to 235ha of employment land is 193 homes per ha of employment land. Applying this ratio to the Gateway Site it equates to 45,355 homes. However, it is acknowledged that the Gateway Site comprises a considerable amount of B8 use and therefore will be lower, although this does illustrate the magnitude of the project.
- 2.19 The Gateway Site will therefore generate levels of employment significantly over and above that contained within the Warwick Local Plan and SHMA (including the SHMA economic led scenarios) and no joint housing, or importantly employment strategy, is in place to accommodate it.
- 2.20 In this context, the Council's own independent evidence<sup>2</sup> indicates that at least 8,200 jobs will be generated by the Gateway Site with 1,200 of those being attributable to Warwick District, and 4,900 of them being attributable to Coventry and Nuneaton. Therefore arrangement should be in place with Coventry, Warwick or Nuneaton to provide levels of housing specifically associated with at least 4,900 jobs of the Gateway Site for Nuneaton and Coventry, and Warwick provide housing for 1,200 jobs, all of which are in addition to the SHMA requirements.
- 2.21 Arrangements are not in place, and Warwick District is not making provision for the 1,200 of its own jobs proportion from the Gateway Site.
- 2.22 The Council's own plan sets out in Policy DS1 that it is planning for the sub-regional economy, and yet no sub-regional agreements or commensurate housing strategies are in place.
- 2.23 Equally there is no joint evidence of constructive engagement on how other authorities will provide for or make allowance for the employment and housing levels generated at the Gateway Site in respect of their own Plan requirements. Warwick has identified that the employment at the Gateway Site is in addition to its own need (albeit acknowledging that a limited level of displacement will occur), however, there are no statements available from the other authorities on whether this sub-regional site is accommodating some of their need, or if it is in addition to their need. The CWLEP evidence would indicate that it is in addition to all CWLEP authorities employment needs, thus requiring an increase in all their housing also.

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<sup>2</sup> Independent research commissioned by Warwick District Council and reported to Planning Committee on 12 June

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## Conclusion

- 2.24 RPS is of the opinion that the Council has failed to understand, respond to, and meet the statutory DtC. The plan is therefore not legally compliant.
- 2.25 To have met the DtC, one would expect to have in place a Memorandum of Understanding, common cross boundary strategic policies, or at least political agreements on how employment land is being provided in the **functional economic market area** and how this is balanced with housing provision. None of this is present and to do so now would be retrospective. RPS does not believe at this stage this can be rectified and the plan is unlawful.

### 3 FAILURE TO COMPLY WITH THE STRATEGIC ENVIRONMENTAL ASSESSMENT DIRECTIVE

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#### Introduction

- 3.1 RPS objects to the Council's approach in selecting strategic sites for development. It is not compliant with the requirement of the Strategic Environmental Assessment Directive or that of the Environmental Assessment of Plans and Programmes Regulations 2004.
- 3.2 Lenco's land interests south of Coventry have been promoted to the Council since 2007 and at no stage has the land been placed in the public domain for public consultation as a strategic alternative to meet the needs of Warwick or Coventry. RPS considers this prejudicial to the consideration of the site and unlawful.
- 3.3 In addition to the failings of the strategic consideration of the site, part of the site at Baginton has also been promoted to the Council as a smaller development phase to meet the needs of the village, particularly in the context of Baginton being identified as a 'Growth Village' in the Plan. However, again, this site has not been subject to any public consultation or SA/SEA by the Council, despite early and comprehensive promotion of the site to the Council by RPS through duly made representations.
- 3.4 RPS does not consider the current plan lawful on both counts.

#### Context

- 3.5 The Council's reasoning for excluding Land at Baginton from previous consultations has been based upon assumptions for which the Council held no evidence. It considered the site unsuitable in its SHLAA process on two occasions (2009 and 2012) based on a number of technical constraints without evidence supporting its position. As a result, the Council failed to place the site within the public domain as a suitable reasonable alternative to other strategic sites being considered in consultations.
- 3.6 During this process, RPS had consistently engaged with the Council with regard to the alleged constraints to the land at Baginton and provided evidence to the Council demonstrating that the constraints did not exist. This included evidence from RPS discussions with the Council's own Environmental Health Officers that clarified that the constraints to development identified in the SHLAA process did not preclude development. This was all undertaken at very early stages of the plan preparation and the Council provided with the evidence on the site's suitability.
- 3.7 However, the evidence provided to the Council by RPS was not used, and the Council maintained a stance that constraints existed despite having no evidence to support it. As a result the site has been prejudicially excluded from all option appraisal processes.

#### Basis of Objection

- 3.8 It is long established that all reasonable alternatives should be considered within the development plan and SEA/SA process, and that failure to do so is a matter of serious concern which can deem the Plan unlawful.

- 3.9 Reasonable alternatives and the consideration of them should be **fair, equitable and by public scrutiny**<sup>3</sup>. This is established in law. Decisions on sites should also be evidence base led. Appendix 2 provides a chronology of how RPS has promoted Lenco Investments land south of Coventry for consideration by the Council. It also illustrates how the Council failed to consider the site within each stage of its consultation, along with a critique of the evidence upon which Council decisions were being made. The conclusion of this is that site has never been subject to SA/SEA or public consultation despite being a reasonable alternative.
- 3.10 It is also evidenced in Appendix 2 that the Council never held any substantive evidence to exclude the site from consideration as a strategic alternative in the first instance, and in fact it was in possession of evidence supplied by RPS at an early stage that set out that it is entirely suitable. RPS has responded on this matter to the Council on a number of occasions giving it the opportunity to rectify this position. However, it has chosen not to, thus now reaching a point of no return.
- 3.11 Most recently, RPS made representations to Warwick District Council in 2014 during the latest consultation period, and met with a Council representative to discuss previous representations made, the 2009 and 2013 SHLAA conclusions and this particular issue. No evidence was presented to RPS outlining why the site was unsuitable. RPS has since assessed the Sustainability Appraisal published alongside the current version of the plan and the site is still absent from all assessments, both in historic and current appraisals. RPS considers that despite full engagement in the process by RPS, the Council has persistently (including the most recent plan) failed to appraise the site as a reasonable alternative based upon no evidence held by it.
- 3.12 In particular, Table 4.15 of the latest SA Report published by the Council sets out the most recent position of sites appraised through the Council's SEA/SA process. This includes sites selected and rejected in the current version of the plan and reasons for being discounted. The site promoted by RPS does not appear in the table as a site that has been appraised at any time now, or historically.
- 3.13 Furthermore, Table 4.16 sets out that the sites that have been appraised as part of the village site selection process. Again the smaller area of land promoted to the Council by RPS does not appear within the table, despite specific representations being made on this component of the plan as recently as 2014, including a meeting with Council officers and agreement that this part of the site is suitable.
- 3.14 RPS therefore presents evidence that the Council has failed in its SEA/SA process to appraise Lenco Investments land south of Coventry as a strategic alternative alongside other reasonable alternatives, as well as a part of a smaller local village allocation. It has failed on two counts.
- 3.15 If it had considered the site as a strategic site or the smaller component as a village expansion site, it site should have appeared within Table 4.15 and 4.16. RPS can find no evidence to date

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<sup>3</sup> Judgement Case CO/3983/2011, Mr Justice Ouseley, Paragraph 71, (Heard versus Broadland District Council, South Norfolk Council and Norwich City)

that the Council has appropriately and based upon evidence fairly, equitably and by public scrutiny assessed the site.

- 3.16 While it is understood that SA/SEA evidence can be compiled within the later stages of plan making, it cannot be undertaken retrospectively where decisions would lead to prejudice.
- 3.17 RPS therefore believes the plan to be unlawful on the following specific aspects, and Appendix 2 provides the evidence.

***Basis of unlawfulness***

***1. Failure to take into account the result of consultations in decision making***

- 3.18 Article 2(b) of the SEA Directive defines 'Environmental Assessment'. This states that:
- “environmental assessment shall mean the preparation of an environmental report, the carrying out of consultations, the taking into account of the environmental report and the results of the consultations in decision-making and the provision of information on the decision in accordance with Articles 4 to 9”.***
- 3.19 The above therefore requires the Local Planning Authority to prepare an Environmental Assessment ***“taking into account the result of consultations in decision making”***. There is no evidence that Warwick District Council took any account of the information provided to it by RPS in its decision making of the plan through the SEA/SA processes.
- 3.20 The 2009 SHLAA identified the land promoted by RPS (SHLAA reference C10) as unsuitable on noise and odour but held no evidence on this.
- 3.21 In 2009, RPS presented, in duly made representations, evidence that noise and odour do not preclude development on this site, including reference to dialogue with the Council's own Environmental Health Officer.
- 3.22 Subsequent development plan publications and SA failed to take into account the information submitted by RPS.
- 3.23 In 2012 the Council published a revised SHLAA where the findings on the site's suitability remained unchanged to that of the 2009 SHLAA. Again RPS responded to this consultation to the effect that the Council held no evidence of its own to substantiate the 2012 SHLAA position, and that RPS had already previously provided all the relevant evidence to the Council indicating the site was entirely suitable.
- 3.24 In 2013 and 2014, the Council published revised Local Plan documents all of which still failed to take into account the information provided by RPS. Furthermore, it was revealed in 2013 within correspondence from the Council that the original SHLAA assessment in 2009 had the constraints identified as *'uncertain'* (Appendix 2 of this statement refers) in the first instance and that Council Officers were not aware of the further information that had been submitted by RPS on the site since 2009. Aside from inappropriately deeming a site unsuitable on only 'uncertain' constraints, it was a clear failing of the Council that it had not taken into account the information duly submitted by RPS during all statutory consultations. The lack of awareness of the information of duly made representations is not sufficient justification to exclude the consideration of the site.

- 3.25 Not until 2014 and the latest SHLAA (as a result of a meeting with RPS) has the Council sought to amend part of the SHLAA reference C10. However, remarkably it still maintains that much of the site is unsuitable for development on the basis of noise and odour, despite still holding no evidence of its own on these matters or rebuttal of the unequivocal evidence provided to the Council that it is entirely suitable. Furthermore the evidence submitted by RPS was prepared in dialogue with the **Environment Agency, Coventry Airport, Severn Trent Water and the Council's own Environmental Health Officers**.
- 3.26 The Council clearly made an error in its early 2009 SHLAA and that error has been followed through to the 2012 SHLAA and the entire plan making process, despite representations to formal consultation by RPS. It is an error that has never been corrected and has significant implications for the Council's Plan.
- 3.27 **The Council has clearly failed to meet Article 2 of the SEA Directive.**
2. Failure to comply with Article 5(1)(h) of the SEA Directive in reference to ANNEX I
- 3.28 Annex I to Article 5(1) of the SEA Directive requires the environmental assessment to include:
- “an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical difficulties or lack of know-how) encountered in compiling the information required”.***
- 3.29 RPS would therefore expect to identify the land it promoted within the appraisal of alternatives. It is, however, not identified at any stage in the SA Reports as an alternative.
- 3.30 It is understood that the Council discounted the site on the basis of incorrect SHLAA evidence and therefore did not consider the site as a reasonable alternative. It has been identified above, that on many counts and occasions this was erroneous and based upon no evidence. It was also based upon ‘*uncertainties*’ on the impact of the constraints that allegedly existed. RPS contests that sound evidence existed to justify exclusion in the first instance, but if there were uncertainties or “*technical difficulties*”, this should have been expressed clearly as required by the above SEA Annex, rather than the assessment moving forward upon such fragile assumptions.
- 3.31 RPS contests that the Council has appropriately appraised this site and that no reason has been provided in any Environmental Assessment on why the land south of Coventry promoted by RPS has been excluded.
- 3.32 It has been clarified in case law that the requirement is for all reasonable alternatives to be assessed fairly, equitably and by public scrutiny<sup>4</sup>. RPS contests that this is the case in respect of Lenco Investments’ land interests South of Coventry that it has promoted since 2007, on the basis that:

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<sup>4</sup> <sup>4</sup> Judgement Case CO/3983/2011, Mr Justice Ouseley, Paragraph 71, (Heard versus Broadland District Council, South Norfolk Council and Norwich City)



- The site has not been assessed **fairly** as the Council has not held any evidence or published any evidence at any stage that specifically precludes development at this site. The assessment is based upon evidence '*uncertainties*' and has held no regard to the information provided by RPS. The site has therefore been prejudiced and **unfairly** considered;
- The site has not been assessed equitably to those other sites that have been included within the plan or discounted. It was unfairly discounted and therefore not subject to **equitable appraisal**; and
- The site has never been subject to public consultation and thus **no public scrutiny** of it, or its comparison to alternatives.

3.33 In the context of the above, the Environmental Assessment of Plans and Programmes Regulations 2004, Regulation 8 prevents the submission of a plan for adoption until account has been taken of the opinions expressed in the course of consultations. At present the Council has not taken into account the opinions expressed through consultation.

3.34 **The Council has failed in its compliance with this requirement.**

## 4 SECTION 2 DEVELOPMENT STRATEGY

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### Introduction

- 4.1 RPS objects to the Council's development strategy proposals set out in Section 2 of the Draft Plan, and principally how they are delivered through **Policy DS1 Supporting Prosperity** and **Policy DS2 Providing the Homes the District Needs**. The Council's proposals are woefully short on the number of homes required and fail to balance the level of housing and jobs provided within the strategy of the plan, or the core Objectives of it.
- 4.2 The plan is unsound as it is unjustified and infective.

### Basis for objection

- 4.3 The Plan is led by its Strategy and in turn the Plan Objectives set out in pages 10 through to 13.
- 4.4 Objective 1 states that the Plan will:
- Provide a sustainable level of economic growth to maintain high levels of employment, and to deal with pockets of unemployment in deprived areas; and
  - Provide a sustainable level of housing to reduce the number of people who are currently homeless or living in unsatisfactory accommodation, to meet future housing needs, and to help deal with the issues of affordable housing
- 4.5 A key component of the above Objective and the Plan's Strategy is the Council's reference to balancing economic and housing growth. This is specifically referred to (paragraph 2.4 refers) in respect of balancing the number of jobs in the District and the working age population to boost economic development, and the supply of jobs. RPS fully supports this approach and the objective set out above as it is reflective of the NPPF.
- 4.6 From the above and chronologically, the Plan's Objective leads onto the Development Strategy and the policies of the Plan, notably strategic **Policy DS1: Supporting Prosperity** and **DS2: Providing the Housing the District Needs**. Policy DS1 states that:
- "We will provide for the growth of the local and sub-regional economy by ensuring sufficient and appropriate employment land is available within the District to meet the existing and future needs of businesses".***
- 4.7 RPS fully supports the direction of this policy and the specific positively prepared references to planning for the local **and sub-regional** economy.
- 4.8 Policy DS2 logically follows Policy DS1 which sets out that the authority will meet its full objectively assessed needs. The supporting text for this states at paragraph 2.7 that the Council's approach:
- "recognises that new housing is not only important to meeting the changing and growing needs of the District's population, but also in supporting the local economy by encouraging investment and ensuring that homes are available to complement the economic and business needs and ambitions for the District".***

- 4.9 RPS supports the general thrust and compatibility of these two policies.
- 4.10 Chronologically the process then leads to a development strategy set out in Policy DS4: Spatial Strategy that sets out that housing and employment will be distributed across the District to take into account of seven criteria listed in the Policy. RPS fully supports the seven criteria that have been identified. They are logical and reflective of the principles of sustainable development and the NPPF.
- 4.11 The explanation to Draft Policy DS4: Spatial Strategy sets out that the housing and employment allocations contained in the Draft Plan have taken into account national planning policy, the 'Strategic Economic Plan for Coventry and Warwickshire (2014)', public consultation results, evidence prepared to support the Local Plan and the Council's Sustainability Appraisal. All this is entirely logical and RPS does not object to the approach set out.
- 4.12 However, having set out all of the above, the plan then fundamentally fails to deliver on the Strategy and Objectives it has set out.
- 4.13 The proposals and policies in the Plan are not consistent with the approach set out in the preceding strategy. The proposals in the plan fail to provide for the objectively assessed need for housing, but more importantly fail to balance the provision of homes and jobs as advocated by the authority as being a fundamental component of the Plan's strategy and policy framework. It is therefore ineffective and unjustified.

#### **Failure to balance the provision of jobs and homes**

- 4.14 The Plan sets out that the predicted level of job growth is 10,200 jobs over the plan period and identifies a need for 66ha (gross) employment land in Policy DS8 Employment Land.
- 4.15 From this the general principle, the plan seeks to present a logical relationship between balancing local housing and employment need, and gives the impression that these are in harmony.
- 4.16 However, the Council then (in Policy DS16 Sub-Regional Employment Site) identifies land in the vicinity of Coventry Airport for 235ha of employment land (the Gateway Site) that is of sub-regional significance and over and above its local employment requirements. The basis for this is acknowledged and accepted as part of the Council's Strategy as Policy of DS1 (referred to above) sets out that the authority will plan for the growth of the Sub-Regional economy. On this basis, RPS has no objection to the identification of the Gateway Site as a sub-regional employment site and considers this a proactive approach to providing for new jobs in the sub-region. It is also consistent with the strategy of the plan.
- 4.17 However, RPS's objection is that the plan fails when considering the commensurate level of housing required, as no account of this major sub-regional employment location is taken in respect of the balance between of jobs and homes. There is no assessment or reference to the level of housing that will be needed to support this allocation or to balance its provision with the need for new homes. Given that this principle is a fundamental driver of the Plan as part of its Strategy and core Objectives, the plan cannot be found sound if it does not deliver on these. The provision of this employment site is over and above the local employment requirements for Warwick and therefore it will generate a housing need over and above the level of housing

provided, and unless this is met, the plan's policies fail to deliver on its own Objective and Strategy.

- 4.18 For context, the supporting text of Policy DS16 sets out that Strategic Economic Plan published by the CWLEP in March 2014, identifies that the sub-region would benefit from at least one new major employment site and that land in the vicinity of Coventry Airport should be the priority to fulfil this role. The Plan states that this location is well placed to meet the needs of the sub-region's key growth sectors and that it is close to area of some of the most significant economic deprivation in Coventry and Warwickshire. RPS supports the logic and evidence behind the identification of this strategic employment area and that the District is planning strategically for the sub-regional economic needs.
- 4.19 However, when one turns to the level of new homes that are required to accommodate the workforce of a development of 235ha (which is three and half times larger than and in addition to Warwick Districts entire 20 year local plan target for employment), there is absolutely no plan in place or sub-regional agreement on how to deliver new housing to support the workforce associated with it.
- 4.20 It is therefore difficult to comprehend how a plan that makes such an allocation of employment land without commensurate levels of housing can be found sound, particularly when the whole basis and driving objectives of the plan are that it is economic led and seeks to balance housing with its employment provision. RPS therefore objects as the Plan is not justified unless adequate sub-regional housing provision is addressed.

#### **Support for the justification of the Gateway Site within the Strategy**

- 4.21 The Coventry and Warwickshire Gateway site is located immediately south of Coventry City in Warwick District. It is located on what is identified in the (page 24 refers) CWLEP Strategic Growth Plan as the strongly established north-south strategic travel to work corridor than runs through Nuneaton, Coventry, Leamington and Warwick and where 80% of travel to work movements occurs. The corridor was also previously identified as a High Technology Corridor within the Regional Spatial Strategy for the West Midlands and acknowledged in Policy PA3 of the RSS. This same corridor has now also been identified as the principal north-south public transport corridor in the CWLEP document where a range of transport infrastructure is prioritised.
- 4.22 While it may have a new name, the corridor remains functionally the same and the location of the Gateway Site on it is unquestionably highly sustainable and extremely well located for socio-economic reasons. Its location and justification is therefore soundly based. RPS supports this allocation.

#### **Justification for the objection to the lack of additional housing to support the Gateway Site within Warwick District or Sub-region.**

- 4.23 The CWSEP sets out justification for a jobs led spatial strategy, accompanied by the Warwickshire District Councils' Statement of Common Ground committing to prepare jobs led local plans. However, the Warwick Local Plan makes no provision for housing to be accommodated within Warwick to even part balance the provision of 235ha of employment land within Warwick District.

- 4.24 The level of jobs growth associated with the Gateway site is **at least 8,200 jobs**, of which 6,400 would be new jobs to Coventry and Warwick. This is evidenced by independent research commissioned by Warwick District Council itself and reported to Planning Committee on 12 June 2013. Of the 8,200 jobs, 1,200 are attributable to Warwick District in the evidence presented to the Planning Committee. The same report then identifies that 4,900 of the 8,200 jobs would be for residents living within the Coventry and Nuneaton Regeneration Zone.
- 4.25 On the basis of the above, it is very clear that the Gateway Site generates significant additional jobs to Coventry and Warwick, **over and above those contained within the Council's baseline economic projections and SHMA**. Furthermore, the majority of those jobs will provide for the residents living in the Coventry and Nuneaton Regeneration Zone with a significant number of jobs (1,200) for Warwick District. A sub-regional joined up strategy for the provision of new homes would therefore be expected to be evidenced. It is not.
- 4.26 If one looks to the 2013 SHMA for this, no reference is given to the Gateway Site or to the levels of employment/jobs generation associated with it. All employment based projections are baseline economic forecasts. Therefore while the Council may have conducted a sub-regional/Housing Market Assessment on housing need, it is completely silent on the employment generated by the Gateway Site, which is over and above the employment forecasts for Warwick District and the SHMA as a whole.
- 4.27 Therefore the Council's proposals do not make any allowance for the impact of the Gateway site.

#### **The need to balancing sub-regional housing and distribution**

- 4.28 The CWLEP has stated that it is seeking a jobs led approach to growth and that growth will be balanced with housing. In this context, it has set out that 94,500 jobs will be provided in the area and identified a sub-regional employment site in Warwick to provide a significant component of this. It then sets out that the 2013 SHMA requires 75,000 new homes to support this but no distribution of dwellings is forthcoming.
- 4.29 Aside from the fact that the 94,500 jobs is not supported by 75,000 new homes and requires a substantially higher level of housing as evidenced in the 2013 SHMA, there are no proposals or agreements in place under the Duty to Cooperate (DtC) to provide the distribution of housing that the Gateway Site will require.
- 4.30 The Council states that this is due to the capacity of adjoining authorities being unknown and therefore no request has been made of Warwick to accommodate any unmet need from elsewhere, principally Coventry City.
- 4.31 RPS finds it hard to comprehend that after three years since the introduction of the Duty to Cooperate, and with the allocation of a sub-regional employment site, no cooperation has taken place on the distribution of housing required to accommodate the Gateway Site, given the extensive evidence available and collated by the authorities and the CWLEP. This is set out below.

Evidence	Source
Coventry's Growth is at least 23,600 dwellings over the period 2011 to 2031	Table 40 of the 2013 SHMA
Coventry cannot accommodate 23,600 dwellings within its administrative area and will require assistance. Its withdrawn Core Strategy indicated a capacity of <b>only 15,000 dwellings</b> .	2012 Coventry Core Strategy and associated SHLAA evidence
The Coventry and Warwickshire LEP has set out that the spatial plan for the area is one of jobs led growth	CWLEP 2014 Strategic Economic Growth Plan
All Coventry and Warwickshire authorities have agreed to an economic jobs led approach	2012 Coventry and Warwickshire Statement of Common Ground
The Gateway Site is a sub-regional employment allocations	Draft Policy DS16 in the 2014 Warwick Pre-submission Local Plan.
The Gateway Site will provide 8,200 new jobs in addition to those forecast in economic projections for Warwick. More than 60% (5,000) of those jobs will be for residents in the Coventry and Nuneaton Regeneration Area.	2013 Independent research commissioned by Warwick Council and June 2013 Warwick Planning Committee Report.
Warwick is providing for some 5,000 jobs for residents of Coventry and Nuneaton at the Gateway site	2013 Independent research commissioned by Warwick Council and June 2013 Warwick Planning Committee Report.
Warwick is not providing any new homes that are specifically associated with the 5,000 jobs that will arise from Coventry or Nuneaton at the Gateway Site	2014 Warwick Local Plan
A jobs led strategy an additional 5,000 jobs in Warwick would give rise to approximately 6,800 new homes.	2013 SHMA, Table 49 provides jobs to dwellings ratio evidence.
The Councils and CWLEP have committed to a jobs led strategy that will balance the provision of jobs and housing in a sustainable way.	CWLEP Document and Warwick Local Plan
Balancing 5,000 additional jobs in Warwick over and above existing forecasts would require circa 6,800 to be provided within close	NPPF sustainability principles

proximity to the Gateway Site	
The Coventry and Warwickshire Councils have publically committed in the CWLEP Strategic Plan that they will have their housing figures agreed and any review of them completed by March 2015, thus full provision is required now.	Page 11 of the CWLEP Strategic Economic Plan.

- 4.32 From the above it is clear that Warwick District is providing for some 5,000 jobs for Coventry and Nuneaton at the Gateway Site, over and above its own economic job forecasts. This according to the 2013 SHMA will generate a need for some 6,800 new homes.
- 4.33 To locate these homes in accordance with the CWLEP and Councils' agreed principles of jobs led growth, and to balance the provision of homes with the jobs to create sustainable development and travel patterns, it will require new homes to be provided within close proximity to the Gateway Site and principally on the North South Corridor identified in the CWLEP Strategic Growth Plan. It is also clear from the evidence that Coventry cannot provide for this within its own boundary.
- 4.34 On this basis, a positively prepared plan prepared under the Duty to Cooperate arrangement would address the *strategic matter* of employment provision across the authorities and make provision for a level of housing growth to be accommodated within close proximity to the Gateway Site commensurate to the employment growth expected.
- 4.35 RPS accepts that the Councils may have not yet agreed the exact quantum of development that will need to be accommodated by Warwick to accommodate and balance employment and housing for the Gateway Site. However, the commitment given in the CWLEP Strategic Economic Plan by all CWLEP local authorities that they will **agree their housing requirements by March 2015 and that any review of housing need will also be completed by March 2015**<sup>5</sup> signals that the commitment needs to be reflected in the current Warwick Local Plan through an allocation adjacent to the Gateway Site now.
- 4.36 Alternatively the land promoted by RPS adjacent to the Gateway Site should be removed from the Green Belt and identified as Safeguarded Land. This will allow the plan to be flexible enough to deliver on the Council's own commitment to have in place housing requirement and any review of those completed by March 2015. **It is not feasible to achieve this 2015 commitment any other way.**
- Requirement to make the plan sound.**
- 4.37 RPS objects to the current approach and considers the plan unsound on the basis it is not positively prepared, nor do the policies achieve its own Strategy and Objectives.

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<sup>5</sup> Page 11 of the CWLEP Strategic Economic Plan

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4.38 The alternative sound approach is that the Plan should make provision within its current proposals to accommodate additional growth in housing to support the Gateway Site within Warwick District. This can be achieved by identifying how cross boundary employment needs are being addressed and a strategic broad location for growth south of the City adjacent to the Coventry Gateway Site removed from the Green Belt and safeguarded to accommodate this. Land should be identified adjacent the Gateway Site as strategic housing allocation or as Safeguarded Land under the provisions of the NPPF **to allow the authorities to meet their March 2015 commitment.**



## 5 POLICIES HO & DS6 HOUSING, AND HOUSING GROWTH

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### Introduction

- 5.1 The Council has failed to identify an objective assessment of objectively assessed need for housing. The current proposal is deficient and therefore unjustified and thus unsound.
- 5.2 In appraising the Council's approach, RPS outlines below the manner in which Objective Assessments of Need (OAN) should be undertaken based upon the NPPF, the Planning Practice Guidance (PPG) and case law.

### RPS approach for Objective Assessments of Need for housing

- 5.3 While there is no prescribed methodology for establishing the OAN for housing, the Government published its own guidance in its PPG on 6 March on the approach. The Government guidance should also be read in the context of recent case, law which has further clarified a number of the processes for determining housing need.
- 5.4 From the Government's guidance and in line with case law, RPS sets out that establishing the OAN for housing requires four key components. These are
- Demographic Analysis;
  - Economic Analysis;
  - Affordability; and
  - Market Signals
- 5.5 Each of the above are outlined in turn below, and an assessment of the Council's approach in the November 2013 SHMA provided.

### ***OAN Component: Demographic Analysis***

- 5.6 The PPG sets out in paragraph 015 that household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need. These are considered statistically robust and are based on nationally consistent assumptions. However, the PPG sets out that the projections do not attempt to predict the impact that future government policies, changing economic circumstances or other factors might have on demographic behaviour. Plan makers may therefore consider sensitivity testing, specific to their local circumstances, based on alternative assumptions in relation to the underlying demographic projections and household formation rates. In this context, account should also be taken of the most recent demographic evidence including the latest Office of National Statistics (ONS) population estimates.
- 5.7 RPS therefore expect the authority's housing need to be based upon the Government's latest demographic evidence with close scrutiny of their relevance for future planning, and any adjustments made to them being fully justified.

## Assessment of the Council's Demographic Approach

5.8 In light of the above, RPS has evaluated the Council's use of demographic evidence to inform its OAN. It is observed that Council's SHMA has used what were at the time the latest population and household projections. These were the 2011 Interim Population and Household Projections. However, these were unfortunately only projected by the Government to the year 2021. The Council's SHMA seeks to extend these over the period 2011 to 2031 as set out in paragraph 7.9 of the SHMA.

5.9 RPS concurs that the approach used within the SHMA was, in principle, appropriate at the time for extending the 2011 Interim Population Projections, and that PROJ1A (at the time) formed a reasonable basis as a *core scenario* from which to undertake further sensitivity tests outlined below.

### *Demographic Sensitivity Tests*

5.10 One of the sensitivity tests undertaken in the SHMA considers how to extend the Household Projection evidence beyond 2021 to 2031 and the associated implications for headship rates. It is understood that the SHMA undertook two sensitivity tests in this regard.

5.11 Firstly it tested using the headship rates contained in the previous 2008 Household Projections to 2031. It concluded that this was not a representative approach of future household formation as it is likely to over-estimate household formation in the early period of the plan with the housing market recovery being slower than that contained in the 2008 Household Projection data. This is scenario **PROJ1A – 2008 Headship**. RPS concurs that the use of the 2008 headship rate over the entire plan period in this sensitivity test is likely to be unrealistic.

5.12 The second sensitivity test undertaken is one that seeks to apply a hybrid of the 2011 headship rate data to 2021 and then 2008 rates post this to 2031. This is proposed to represent a slower recovering housing market with a return to increased rates of household formation half way through the plan period. This is scenario **PROJ1A – Midpoint Headship**. In concluding, (paragraph 11.10 refers) the SHMA recommends that this the most appropriate approach to follow.

5.13 RPS concur that sensitivity scenario **PROJ1A – Midpoint Headship** is an appropriate scenario to apply within the SHMA when it applies headship rate information. However, RPS objects to the manner in which this sensitivity test is applied on the basis of the following:

1. **The SHMA is not consistent in the scenarios that it has applied the headship rate sensitivity test to. The SHMA inappropriately limits this test to the basic core scenario 'PROJ1A – Midpoint Headship' and not the economic scenarios leading to incompatible conclusions.**

RPS accepts that if the SHMA has discounted scenarios such as the 5 and 10 year migration scenarios on sound reasons, it is not appropriate to apply the sensitivity test to those. However, the economic scenarios remain sound for consideration within the SHMA sensitivity testing (in particular **PROJA – jobs baseline**) and comparisons are made between them and its recommended scenario '**PROJ1A – Midpoint Headship**'. In this context it is not comparing like for like, as one has the headship rate adjustments made to it and the other not. If comparisons are made, and more importantly

recommendations made based upon the comparisons and observations, then the economic driven scenarios should have the same headship rates and household formation sensitivity test applied. At present they do not.

The implication is that the headship rate sensitivity test **PROJ1A – Midpoint Headship** contains the adjusted hybrid of 2011/2008 headship rates, but the economic driven scenarios contain the suppressed 2011 headship rates, the latter of which the SHMA itself states is not appropriate. Thus housing need is suppressed in the economic scenarios and the SHMA is not comparing like for like. The conclusions / recommendations are therefore derived from bias assessments. The recommended objectively assessed need of 718 dwellings per annum is therefore not comparable to the economic driven scenario of 702 dwellings per annum (Table 49 of the SHMA refers).

2. RPS considers that applying the hybrid scenario may indeed be the most appropriate manner in which to accommodate the lack of household evidence beyond 2021, however, the 2011 household projection are interim, and the date at which the 2008 rates applied is set at 2021 simply because this is the last year of the 2011 projections. The assumption on the point at which the household formation changes to the 2008 based levels is therefore arbitrarily set at 2021, based upon the expiry of the 2011 data. It is not set based upon the logic of why the 2008 rates are applied.

The 2008 based projection evidence is used in the latter periods of the plan as it is more representative of a recovering housing market. RPS sets out that while this has been set at 2021 at other examinations, we are now observing the housing market recovery occurring far earlier than perceived to be the case. The housing market is in fact recovering at rates faster than the Government expected and therefore the year 2021 is no longer an appropriate date from which to apply the 2008 based household projections. RPS sets out that this should be set at 2016 based upon the logic of why it is being applied rather than arbitrary reason being there is no data beyond 2021. **This would be sound.**

#### *Recommendations to make the plan sound*

- 5.14 RPS objects to the Council's demographic approach to OAN for housing on the basis that the evidence is misleading and the level of housing unjustified. To be sound:
- the plan should be consistent in its interpretation of the evidence, at present it is not. The assessments of the economic driven scenarios should be informed by the same hybrid headship rate sensitivity test. To not do so is misleading, inaccurate and unsound; and
  - the headship rate from the 2008 household projections should be applied at an earlier date than 2021. The date at which they should be applied from is 2016.

#### **OAN Component: Economic Analysis**

- 5.15 The NPPF sets out (paragraph 158 refers) that strategies for housing and employment should be integrated and take full account of relevant market signals. The PPG clarifies this further at paragraph 018 setting out that in establishing the OAN for housing, plan makers should make an assessment of the likely change in job numbers based on past trends and/or economic forecasts as appropriate and also having regard to the growth of the working age population in the housing

market area. In this context, the PPG sets out that where the supply of working age population that is economically active (labour force supply) is less than the projected job growth, this could result in unsustainable commuting patterns (depending on public transport accessibility or other sustainable options such as walking or cycling) and could reduce the resilience of local businesses.

- 5.16 It is therefore imperative in the assessment of housing need that due consideration is given to the level of economic activity that can be sustained from the predicted labour force derived from to local economic projections compared to aspirations for local job growth. Any misalignment between the two should be addressed.

#### Assessment of the Council's Economic Approach

- 5.17 The NPG sets out that economic factors and job growth, including the availability of a local labour force are key component in the assessment of the OAN for housing. The current driver of economic growth for Warwick District is the Coventry and Warwickshire Local Enterprise Partnership (CWLEP), with which the district has a statutory duty to cooperate. The CWLEP has just published its Strategic Economic Plan (March 2014). In this it sets out that for Coventry and Warwickshire the approach to spatial planning is **jobs lead**. Section 3.3 of the document sets out its '**Spatial Justification for Jobs Led Growth**' in which it states that the aim is to provide local employment opportunities that may reduce overall commuting distance among residents or to provide homes near to workplaces).

- 5.18 Taking a lead from the CWLEP spatial plan evidence and work, this balance between the provision of jobs and new homes in the context of generating a sustainable local workforce is therefore a key component of the emerging Warwick Local Plan. It has set out in objective 1 of the plan (paragraphs 1.45 and 1.46 refer) is to balance economic growth with housing growth. Furthermore Strategic Policy DS1 : Supporting Prosperity is focused upon supporting the growth of the local and sub-regional economy balancing the number of jobs in the local area and the working age population (paragraph 2.4 refers)

#### *Coventry and Warwickshire Strategic Plan for Growth*

- 5.19 In assessing the CWLEP Strategic Plan for Growth, this sets out very clearly in section 3.3 that 75,000 homes are required (as reflected in the 2013 SHMA) to support 94,500 jobs. However, the figures quoted and correlation between housing and employment are vastly incorrect and misquoted. The figure of 75,000 new homes is not linked to the provision of 94,500 jobs. The accurate reference is that (SHMA table 38 refers) that 75,000 new homes quoted will only support 48,000 new jobs (only 63% of the CWLEP's jobs target). A significant increase in housing is required if the CWLEPs target is to be achieved.

- 5.20 The fact is the 94,500 jobs quoted in the CWLEP document is from another source altogether and not from the SHMA. The 94,500 jobs figure is derived from a more recent Cambridge Econometrics forecast dated August 2013, and not associated with the SHMA at all which is based upon older Experian forecast data.

- 5.21 In the context of the above, the actual evidence on the jobs driven scenarios contained within the SHMA are derived from older Experian data which only forecasts 62,600 jobs over the same period.

5.22 In light of the above, there is a misalignment of evidence in the CWLEP study as the 75,000 new homes quoted in the CWLEP document will only support 62,600 jobs (2013 SHMA). If the CWLEP is really planning for 94,500 jobs, then a housing requirement in excess of the 75,000 dwellings is going to be required in the Housing Market Area.

5.23 The correct references are set out below in Table 3.1

Table 3.1 Correct references to jobs and housing growth

Evidence Quoted	CWLEP Document	SHMA demographic scenario (PROJ1A Midpoint Headship)	SHMA economic driven scenario (PROJ A – jobs led)
<b>Jobs</b>	94,500 ( <i>August 2013 Cambridge Econometrics data</i> )	49,900	62,600 ( <i>Experian 2013 Forecast</i> )
<b>Homes</b>	75,000 ( <i>2013 SHMA</i> )	75,000	75,400
<b>Population</b>	200,000 ( <i>ONS 2010 population projections</i> )	137,600	162,500

5.24 As can be seen from table 3.1 above, the CWLEP document mixes its data sources which are all driven by different assumptions and evidence. They are not consistent. It can be observed that if the CWLEP is planning on delivering 94,500 jobs and a population increase of 200,000 people then the housing requirement needs to be increased significantly above 75,000 new homes as it is woefully short. Comparatively one can observe therefore that there is no significant correlation between the SHMA, the CWLEP Strategic Plan and thus the emerging Warwick Local Plan.

5.25 The implications of this for Warwick District are significant.

5.26 The CWLEP study does not specifically breakdown the 94,500 jobs target for each District. However, it is noted that the Warwick Local Plan sets out that according to economic forecasts produced by Cambridge Econometrics in 2013 the District will experience a job growth of 10,200 across the plan period at 560 per annum. **The Council is, however, now referencing an entirely different more recent economic projection (Cambridge Econometrics) within its Submission to that contained within the SHMA and upon which the older SHMA economic forecasts (Experian) are based.**

5.27 The Council's latest Cambridge Econometrics sourced forecast indicate a higher rate of growth than set out in the 2013 SHMA. This indicates a job led scenario would be derived from 560 jobs per annum which is higher than the economic scenarios that informed the Council's SHMA and considerably higher than the 450 jobs per annum that would be catered for in the Council's preferred figure.

5.28 It is therefore evident that the same mismatch in evidence that occurs in the CWLEP evidence between housing need and job growth similarly exist in the Council's Submission Plan with little, if no relationship made to the 2013 SHMA.

5.29 In summary therefore it is apparently clear that:

- that the authority is not planning an economic/jobs led approach to growth and is in fact planning for lower levels of economic growth than that project in both older Experian data (2013 SHMA) and newer Cambridge Econometrics data (Submission Plan);
- The plan is not planning to meet its economic growth needs as part of its objective assessment of housing need, contrary to the PPG and the NPPF requiring this;
- The CWLEP is planning for a level of job growth not matched by housing provision and that these inaccuracies are also reflected in the Warwick Local Plan;
- The authority has selected to combined difference sources of evidence for housing and employment to that contained within the 2013 SHMA; and
- The authority has failed to present the economic scenarios in a comparative basis to that of its preferred choice scenario (as set out in the demographic commentary above) to justify the assumption that they are meeting economic needs.

*Recommendations to make the Plan sound*

5.30 The Council should seek to plan for its full objective assessment of housing need incorporating meeting the needs of the economy as required by the NPPF and PPG. This would require it to plan for housing to meet the needs of its latest economic projections as a minimum requiring 560 jobs per annum as a minimum. This should be considered an absolute minimum, given that the CWLEP is planning on a level of jobs significantly in excess of the Council's current proposals and the proposed allocation of the Gateway Site is additional employment to the Council's forecasts.

Implications of the Gateway Site on OAN

5.31 The Local Plan sets out that the CWLEP Employment Land Review identified a need for 66ha of employment land gross within the District and that the net requirement is 19.7ha which it allocates to sites in Warwick and Kenilworth. It also makes allowance for 6.5ha of employment land at the sub-regional Gateway site (through displacement from elsewhere in the District).

5.32 The Gateway site is identified in Draft Policy DS16 for 235ha of employment land as a sub-regional employment site located on the edge of Coventry, to the far north of Warwick District. The implications of this are significantly underplayed within the Council's strategy.

5.33 The allocation of the Gateway Site within the Local Plan is fully aligned to the CWLEP strategy for unlocking economic growth, but the provision of land at the Gateway Site is additional to the identified in the Council's employment land requirements and those jobs identified in the Council's SHMA. As such there is no correlation of the impacts of the Gateway site in terms of jobs or employment land to the Council's housing need as this is based upon evidence that excludes the Gateway Site. Furthermore, there is no correlation to this and the housing need of the wider sub-region, of which the Gateway Site serves.

5.34 It is therefore hard to understand how the Council can be committed to taking a jobs led approach to its spatial strategy balancing housing and employment planning for a sub-regional

employment site with absolutely no corresponding plan in place for addressing the local or sub-regional housing need associated with it.

5.35 RPS is aware, however, that while the Draft Submission Plan makes no reference to the balance of housing and employment required to accommodate a sub-regional employment site, Warwick District Council commissioned a specific study to appraise how many jobs would be generated by the development and how many of those would be attributable to Warwick. Unfortunately, the Council has not chosen to use this evidence in the preparation of its Plan.

5.36 The findings of this study were reported to Council Members at the Council's Planning Committee on 12 June 2013, setting out that an additional 8,210 jobs are likely to be generated by the development, of which 1,230 are likely to be additional jobs to Warwick. There is therefore a substantial increase in the level of jobs for Warwick over and above the 10,200 set out in the Plan and no allowance is made to balance the housing needs of this additional employment in the Draft Plan. There is, however, an acknowledgement that some displacement will occur from other areas of Warwick.

5.37 The level of housing required needs to be increased in order to balance this additional employment provision attributable to Warwick District from the Gateway Site.

*Recommendations to make the plan sound*

5.38 As set out above, the objectively assessed need for housing currently is misaligned with the Council and CWLEP's aspirations for economic growth and severely unbalanced in the context of the Council's plan objectives of balancing both. Equally, the need for housing has no regard to the provision of a sub-regional employment site within Warwick.

5.39 The plan should be balanced on the basis of a jobs led scenario using the most up-to-date economic projections that are comparable to housing need. This would indicate a scenario based upon at least 570 jobs per annum in accordance with the Cambridge Econometric forecasts included within the Draft Plan, with further increase to take into account the level of housing associated with the Gateway site as a strategic sub-regional employment allocation. This would indicate an additional 70 jobs per annum for Warwick alone.

5.40 Warwick District Council's OAN should therefore link to economic requirements of at least 640 jobs per annum.

5.41 Outside of representations made by RPS on the legal compliance of the plan, RPS believes the plan is unsound as presented.

***OAN Component: Affordability***

5.42 The PPG sets out that affordability is a component of establishing the need for housing. Assessments should take into account existing housing need, an estimation of the number of existing households falling into need and that associated with new household formation unable to buy or rent in the market area. Paragraph 029 of the PPG sets out that the total affordable housing need should be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments, given the probable percentage of affordable housing to be delivered by market housing led developments. An increase in the total housing



figures included in the local plan should be considered where it could help deliver the required number of affordable homes.

- 5.43 The assessment of need therefore needs to consider the deliverability of the Council's affordable housing targets and aspirations against its housing requirement, and uplift considered in order to deliver on affordability.

Assessment of the Council's Affordability Approach

- 5.44 The Council has set out that its SHMA contains a requirement for 268 dwellings per annum to be affordable homes. This equates to some 37% of all new homes to be affordable. The Council sets out a target of 40% over an urban threshold of 10 dwellings and a rural threshold of 5 dwellings. This would appear to provide the policy context for the provision of affordable housing. However, when considering the Council's track record on the provision of affordable housing one can observe the following.

<b>Year</b>	<b>Affordable housing delivered</b>
2013	71
2012	26
2011	1
2010	46
2009	120
2008	167
2007	54
2006	30
2005	70
2004	87
<b>Total</b>	<b>672</b>

- 5.45 As can be observed the performance of the authority in delivering affordable housing has never since 2004 achieve a level of provision higher than 167 affordable dwellings. The annual average across the period recorded above is 67 dwellings. In this context, it is unclear on how the Council can make a step change in increasing the affordable housing delivery in the District based upon past performance.

*Recommendations to make the plan sound*

- 5.46 RPS contend that while the 40% rate would appear to match the requirement of 268 dwellings from the plan's proposed figure of 720 dwellings per annum, the performance of the Council



historically must be held in regard. This is poor. On the basis of paragraph 29 of the NPG, there is clear evidence and justification that uplift in the level of housing is required to deliver on affordable housing requirement. This further justifies the level of new homes aligned to economic jobs led forecasts.

***OAN Component: Market Signals***

5.47 The PPG sets out that a housing need number suggested by household projections (which is the starting point) should be adjusted to reflect appropriate market signals, as well as other market indicators of the balance between the demand for and supply of dwellings. Prices or rents rising faster than the national/local average may well indicate particular market undersupply relative to demand. The PPG sets out that relevant signals may include those listed below, although this list is not exhaustive and other indicators, including those at lower spatial levels, are available and may be useful in coming to a full assessment of prevailing market conditions:

- Land prices;
- House prices;
- Rents;
- Affordability;
- Rates of development; and
- Overcrowding

5.48 The PPG sets out that plan makers should make appropriate comparisons of indicators which includes comparison with longer term trends (both in absolute levels and rates of change) in the: housing market area; similar demographic and economic areas; and nationally.

5.49 Pertinently, the PPG states (paragraph 20 refers), a worsening trend in any of these indicators will require upward adjustment to planned housing numbers compared to ones based solely on household projections. Volatility in some indicators requires care to be taken: in these cases rolling average comparisons may be helpful to identify persistent changes and trends.

5.50 In areas where an upward adjustment is required, the PPG states that plan makers should set this adjustment at a level that is reasonable. The more significant the affordability constraints (as reflected in rising prices and rents, and worsening affordability ratio) and the stronger other indicators of high demand (e.g. the differential between land prices), the larger the improvement in affordability needed and, therefore, the larger the additional supply response should be.

Assessment of the Council's Affordability Approach

5.51 Evidence is available on market signals for Warwick from the Warwickshire Observatory. This has published evidence on housing affordability in the District in its 2013/14 Quality of Life Report. This contains the following information.

Year	Housing Affordability*	Homelessness (households)	Housing Completions

2001	5.85		844
2002	6.46		946
2003	7.89		709
2004	8.32	205	702
2005	8.63	-	733
2006	8.26	85	465
2007	8.59	122	580
2008	8.35	83	410
2009	7.38	65	177
2010	8.39	109	77
2011	7.54	123	144
2012	7.65	174	

*\*Affordability Ratio is derived from lower quartile house prices compared to lower quartile annual incomes*

- 5.52 This indicates increasing lack of affordability in Warwick in the trends as well as increasing levels of homelessness. The 2013 SHMA also reflects these trends in the housing market. This is compared to a decreasing supply of housing which is exacerbating the negative trends in housing affordability and market conditions.
- 5.53 The 2013 SHMA (Table 5 refers) also indicates that Warwick District has seen the second highest increase in house prices in the period recorded, second only to its neighbour Stratford-upon-Avon.
- 5.54 In respect of overcrowding, the 2013 SHMA (Table 12 refers) indicates that Warwick District has experienced the largest levels of overcrowding in both 2001 and 2011 outside of Coventry City in the Housing Market Area with 6.5% of households overcrowded in 2011.
- 5.55 The evidence on market signals indicates that Warwick District is clearly experiencing unfavourable conditions in respect of housing market and affordability trends. There is therefore clear justification for increasing the housing requirement above the demographic levels as recommended by the NPG.

*Recommendation to make sound*

- 5.56 The OAN for Warwick should be increased in line with the recommendations of the NPG above the demographic level that is proposed and aligned with the economic profile of the District to provide more favourable market conditions and rebalance some of the market signals that indicate an unhealthy housing market. It should be established through a jobs-led approach.

## Conclusions

- 5.57 The Council is basing its OAN upon its latest SHMA published in November 2013. This sets out a number of sensitivity scenarios and recommends that an objective assessment of need is 720 dwellings per annum, which over the plan period is 12,960 dwellings. The Council then proposes 12,800 dwellings. This is claimed to be aligned to the economic potential of the District in scenario '**PROJA – jobs led**', however, there are deficiencies in this comparison and the SHMA significantly under represents the level of growth required to sustain the economic aspirations of the District.
- 5.58 RPS has therefore appraised the Council's approach against the four components of the PPG guidance on establishing the OAN, these being *demographic, economic, affordability and market signals*, and there is clear evidence that the Council's proposals for 12,800 dwellings over the plan period will lead to a significant under provision of housing and is not representative of objectively assessed housing need.
- 5.59 In order for the plan to be found sound the Council needs to reappraise its housing need on the basis of
- the plan should be consistent in its interpretation of the evidence, at present it is not. The assessments of the economic driven scenarios should be informed by the same hybrid headship rate sensitivity test. To not do so is misleading, inaccurate and unsound. The current figure of 720 dwellings per annum is not justified;
  - the headship rate from the 2008 household projections should be applied at an earlier date than 2021. The date at which they should be applied from is 2016;
  - that the authority is not planning an economic/jobs led approach to growth and is in fact planning for lower levels of economic growth than that project in both Experian (SHMA) and Cambridge Econometrics (Submission Plan). It needs to plan for housing on the basis of the economic evidence supporting the submission plan; and
  - The plan needs to meet its economic growth needs as part of its objective assessment of housing need;
  - The plan should match the CWLEP levels of job growth;
  - The OAN should match the aspirations for higher levels of job growth from the Gateway Site;
  - An uplift in housing provision aligned to the economic strategy is justified to deliver on affordable housing and rectify past poor performance; and
  - An uplift in housing provision aligned to the economic strategy is justified on the basis of current market signals that indicate a declining health in the Warwick District housing market.
- 5.60 RPS sets out therefore the OAN is not 720 dwellings per annum (450 jobs per annum) and should be based upon a jobs led economic scenario of providing at least 640 jobs per annum. This according to table 50 of the 2013 SHMA would indicate a need for **1,020 dwellings per**

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**annum for Warwick alone (not including any allowance for the remaining need generated by the Gateway Site).**

5.61 This would require **18,400 dwellings over the plan period to accommodate 11,500 jobs.**

5.62 However RPS has set out that the plan period should be 20 years from 2011 which would require an OAN of **20,400 dwellings and 12,800 jobs.**

## 6 POLICY DS10 (GROWTH VILLAGES)

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### **Introduction**

- 6.1 RPS objects to this policy as it is not positively prepared as it does not meet the housing needs within Growth Villages. Additional local growth is required at Baginton to support the growth status of the village.

### **Basis of objection**

- 6.2 RPS has identified a strategic site on the edge of Coventry to meet the needs of Warwick arising from the Gateway Site and that of Coventry City. However, RPS is also promoting a part of the site as a phase 1 development to deliver much needed local housing within the village and objection is raised to the level of development currently identified to Baginton as a 'Growth Village'
- 6.3 The current plan sets out that the Growth Village of Baginton will accommodate 35 dwellings over the 18 year plan period. This is equivalent to two dwellings per annum. One site has been identified in Baginton to deliver 35 dwellings. RPS contests that this is a 'Growth' settlement of two dwellings per annum. It will do very little for the village or the Council's strategy.
- 6.4 RPS supports the need for expansion at Baginton, but considers 35 dwellings unrepresentative of the level of housing need in the village.

### **Need for development at Baginton**

- 6.5 Previously, in its Revised Development Strategy publication, the Council stated that Baginton Village, as a Secondary Village, should accommodate between 70 to 90 dwellings as a growth location. However, it now only provides for 35 dwellings.
- 6.6 It is noted that the Council referred to a 2008 based Housing Needs Assessment that illustrates that only 17 dwellings are required in Baginton. RPS has reviewed the document and while it is a relative indication of need as it arose in 2008, not only is it substantially out of date to be used in 2013/14, it only part reports on local housing need.
- 6.7 The Housing Needs Study was prepared by Warwickshire Rural Community Council and is understood by RPS to be based upon a survey response of 138, from 350 forms circulated. It is observed that the survey was relatively comprehensive and established a range of elements of housing need concluding the 17 new dwellings were required. The background evidence published by the Council indicates that of the 17 dwellings, 12 were preferred as rented and five shared ownership. However, from reviewing the actual 2008 Needs Assessment, it is understood to recommend that five of the dwellings were preferred for owner occupiers, leaving nine for rented and three for shared ownership. This indicates that there is in fact latent demand within the village for a wider variety of tenures than indicated in the Council's documentation, and a significant proportion of which favours open market owner occupied dwellings. The Council's replication of this information is therefore incorrect.
- 6.8 Furthermore, the 17 dwelling need was based upon a survey return of 138 forms from some 350 circulated and while a reasonable return rate was achieved, to base the results on only 138 is

not proportionally representative of the village as a whole. RPS would expect that the responses received from the 138 returned forms to be aggregated up to 350 to give a comprehensive full village profile. This would indicate that based upon old 2008 latent demand in the village, higher levels will be required now, comprising a mix of open market, rented and shared ownership.

- 6.9 Given that this study is some six years out of date and in excess of the length for which Housing Needs Assessments have a shelf life, the assumption that only 17 dwellings are required in Baginton Village is considerably out of date and not robust. It is most likely that the demand has indeed increased for housing in Baginton since the survey was undertaken and is closer to the need identified in the Revised Development Strategy of between 70 and 90 dwellings.

*Parish Plan*

- 6.10 In considering the need for new dwellings and the outdated 2008 Housing Needs Study, RPS has examined the Baginton Parish Council “Your Village, Your Future, Your Say” survey of 2011. This considered local opinion on the need for new homes in the village as part of the preparation of the Baginton Village Parish Plan. The findings of which are more supportive of development in-line with the numbers identified in the Revised Development Strategy rather than the 35 currently being proposed. It is noted, however, that despite the full results from this survey, the Parish Council only supports up to an additional 20 dwellings in the village. When read as a whole, however, the survey results indicate that a higher number is more appropriate and justified.

- 6.11 The survey indicates that:

- Approximately 100 respondents stated that they *may* anticipate moving house in the next 5 years with 25 respondents confirming that they *do* intend on moving. Furthermore 12% of all respondents identified indicated that they have *already* experienced family members moving away from the village to secure appropriate accommodation. In response the Parish Council identifies that it recognises this and supports having additional housing in the village for indigenous residents to be able to remain in the village;
- In terms of the type of accommodation required, it was supported that this should be of a type for local people. The survey indicated that this was a mix of housing from provision for young people to larger family housing; and
- It was also supported by the survey and the Parish Council that new housing should be in-keeping with the surrounding houses and be eco-friendly, plus have off-street parking.

- 6.12 From this more up to date information it is clear that there is a requirement to provide additional housing in the village and at more than 20 dwellings advocated by the Parish Council, which would only be approximately one dwelling per annum over the plan period, and indeed more than the 35 currently identified by the Council. It is also evident that the survey indicated that development should be in keeping with the surrounding houses which are of lower density than being proposed.

- 6.13 Therefore, notwithstanding the principal objection to the prematurity of establishing the preferred strategy for Baginton Village in advance of the strategic needs for Coventry City being established, should the Council determine through a full and public appraisal of strategic

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alternative growth scenarios that growth at Baginton Village should be limited to small scale expansion to reflect local needs, considerably more dwellings are required in the village than currently indicated on the preferred site in the current consultation. This would be in-line with the previous Revised Development Strategy requirement of at least 70 to 90 dwellings.

*Recommendation to make sound*

- 6.14 Baginton is identified as a 'Growth', in this context it should be allowed to grow in accordance with its needs. This is identified as being 70-90 dwellings and not 35. Aside from the location requiring to be identified as a strategic site, the village alone should be identified as having a need of at least 90 dwellings over the plan period and a suitable location identified adjacent to the existing allocation.

## 7 POLICY DS 19 GREEN BELT

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### Introduction

- 7.1 The Council has failed to give the Green Belt a degree of permanence as required by the NPPF in that it cannot endure within the current plan period, yet alone beyond it. The Plan is unjustified and thus unsound.

### Basis of objection

- 7.2 The NPPF requires planning authorities to establish Green Belt boundaries that should only be altered in exceptional circumstance and that once established they should have permanence for the long term, including beyond the plan period. It is noted that draft **Policy DS19 Green Belt** within the Warwick Plan identifies areas of land to be removed from the Green Belt around the main settlements of Leamington Spa and Kenilworth as well as the area comprising the Warwickshire Gateway south of Coventry City.
- 7.3 However, as RPS has set out elsewhere, the Council has not provided for both its objectively assessed need, nor has it made satisfactory provision for the level of housing that will be generated by the Gateway Site based upon the employment attributable from it to Warwick District, or that of Coventry and Nuneaton. There is therefore a significant deficiency in the level new homes being provided in Warwick, compared to the level of new employment being provided in the District. This inequity should be addressed, particularly in respect of the Council's strategy and objectives to balance housing and employment provision.
- 7.4 The level to which the Green Belt has been amended is therefore insufficient to meet the needs of the District and Sub-Region.
- 7.5 There is also clear evidence that Warwick District is severely under providing for in housing need and land within the Green Belt offers sustainable options for addressing this.

### Evidence

- 7.6 RPS is aware that the Council has committed to a shared evidence base for future strategic planning and has indicated that (paragraph 2.84, bullet 4) a Green Belt Study comprises part of this. While it states that the Green Belt Study needs to be up to date, there is no commitment to undertake a review of the Green Belt either locally or strategically. As such therefore there is no formal statement that they authorities will undertake a strategic review of the Green Belt, despite committing to reviewing housing numbers by 2015 within the CWLEP Strategic Growth Plan.

#### *Strategic Green Belt Review*

- 7.7 The Council undertook a joint Green Belt Study in 2009 and a Partial Review of it in 2013. The Green Belt review identified a number of parcels of land around the periphery of Coventry and appraised each parcel against the five purposes of the Green Belt, as set out in Planning Policy Guidance Note 2 (PPG2). The parcel of land in which the site being promoted by RPS at Baginton fell was land parcel C11a.



- 7.8 In the assessment, the Council appraised all parcels and those that were identified as meeting three or fewer of the PPG2 criteria were taken forward for further investigation as potential opportunity sites. However, those that were identified as meeting four or five of the PPG2 criteria were discounted. RPS objects to this process and its continued application as it was misapplied in the first instance and fails now to consider the nature of the locations that were appraised in light of significant developments, such as the Gateway Site allocation and planning application.
- 7.9 The original assessment also appraised the land that RPS promotes as part a wider and far larger parcel of land, of which many features were not appropriate to the site that RPS promotes. RPS made representations to this effect outlining the inappropriateness of the delineation of the parcel of land.
- 7.10 The original assessment of the parcel of land (C11a) from the Green Belt Review is repeated below where it was identified as meeting 4 of the 5 criteria and thus not considered further.

To check unrestricted sprawl of large built up areas	To prevent neighbouring town from merging into one another	To assist in safeguarding the countryside from encroachment	To preserve the setting and special character of historic towns	To assist in urban regeneration by encouraging the recycling of derelict and other urban land.
Contributes to preventing sprawl from Stoneleigh, Baginton and sewage works	Does not prevent neighbouring towns from merging into one another	Safeguards the countryside from encroachment from Coventry Airport south of Baginton and north east of Stoneleigh	Contributes to preserving the setting of Baginton Village	Retention of Green Belt land will encourage recycling of derelict and other urban land

- 7.11 RPS objects to the methodology applied on the basis that the fourth criterion has been misapplied. PPG2 set out very clearly that this purpose was '*to preserve the setting and special character of historic towns*'. The assessment applied this purpose to Baginton Village which while it is acknowledged has a conservation area, it is not a town of special character, nor is it of special historic context. The criterion is therefore entirely misinterpreted and misapplied. If one considers the location, there is no special historic significance to Coventry or Coventry Airport at this location, nor is there any relevance of applying this criterion to a small village on the edge of Coventry. Against this misapplication of the Green Belt policy the parcel was discounted whereas it was appraised properly it would have scored against only 3 of the criterion and have been taken forward further.
- 7.12 This position is further evidenced when one observes the 2013 'Critical Friend Analysis of Warwick District Council's Draft Green Belt Assessment' prepared for Warwick District Council. This confirms that for the purposes of criterion 4 (*To preserve the setting and special character of historic towns*), Historic Towns are defined as **Warwick, Royal Leamington Spa, Kenilworth and Stratford-upon-Avon** (Table on Page 37 refers).
- 7.13 Again, to inform the Village Housing Options and Settlement Boundary Consultation in November 2013 (Appendix 8 Green Belt and Green field Review) sets out that the assessment

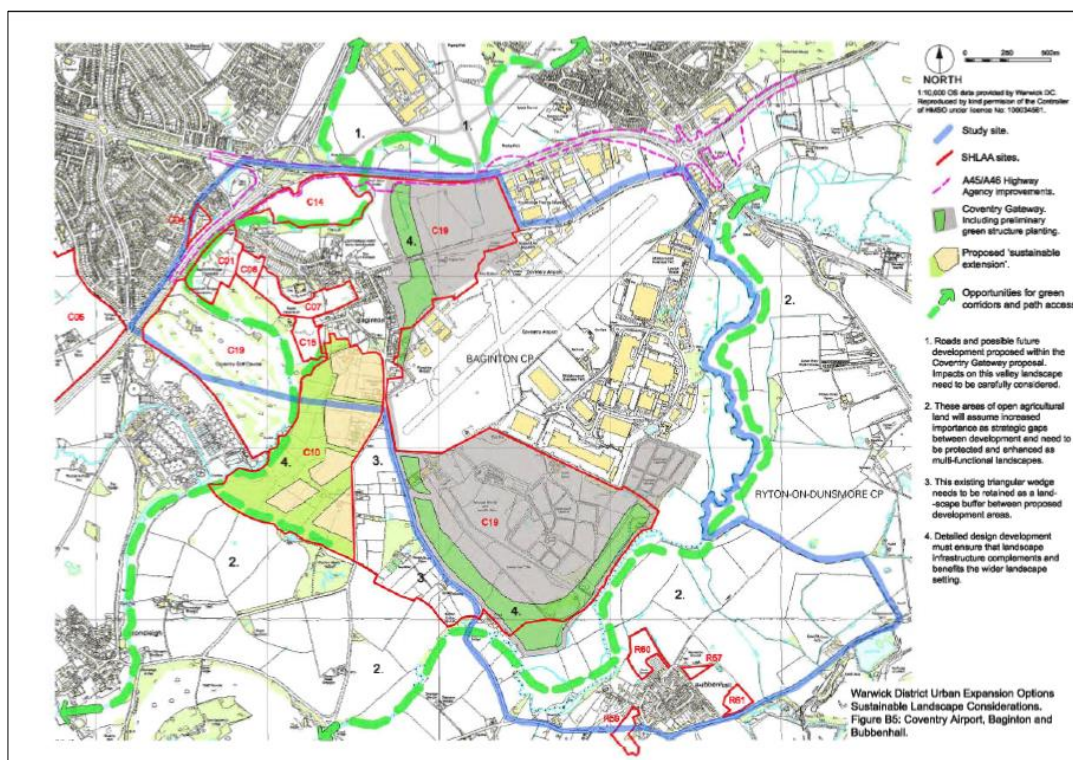
has identified Historic Towns as being **Warwick, Royal Leamington Spa, Kenilworth and Stratford-upon-Avon**.

7.14 There is no mention of smaller settlements or Baginton Village as a ‘Town of Special Character’.

7.15 It is therefore clear that the Council’s own appraisal and critical friend reviews have defined Historic towns as Warwick, Royal Leamington Spa, Kenilworth and Stratford-upon Avon. No reference is made to Baginton as a special town. RPS therefore fully supports the definition set out that this should be applied to **Warwick, Royal Leamington Spa, Kenilworth and Stratford-upon-Avon**, and illustrates how the assessment has prejudiced the consideration of this parcel, and in turn, the land promoted by RPS.

7.16 Despite the above misapplication of the criteria, it is incumbent on the authority to ensure that its decision making remains robust in light of any new evidence or circumstance. One particular change of circumstance at this location is the allocation of the Gateway Site and the fact that this is already minded to grant planning consent by the Council. As part of the assessment of the Gateway Site, the Council undertook a Landscape Appraisal to establish how the Gateway Site could be located within the current landscape and Green Belt. This study concluded that the Gateway Site could be located sensitively within the local environs incorporating the land promoted by RPS.

7.17 The brief for the work was to appraise “in particular, to what extent may multiple developments lead to perceived coalescence of existing settlements?” (paragraph 2.3 refers). This was to include the Green Belt Parcel referred to above C11a. Its conclusions drew on the Masterplan submitted by RPS as illustrated in the extract of the Council’s study below.



7.18 The study found that (in reference to the proposals promoted by RPS) “Proposed residential development adjacent the River Sowe (SHLAA site C10) may have potential to assist in

*developing local green infrastructure assets, although the proximity to the airport could be a constraint. Retaining a ‘buffer’ of agricultural land between C10 and the adjacent airport / gateway project is suggested – but some generous provision of green infrastructure within the Gateway project site will also be necessary” (paragraph 8.12 refers).*

7.19 In conclusion the Council's own evidence therefore indicates that the authority was incorrect in its assessment of Green Belt Parcel C11a, as has been clarified by its more recent evidence that would have necessitated the further consideration of the site in the appraisal process. Furthermore, the independent evidence commissioned by the Council indicates that the proposal by RPS would have positive impact with the potential to add Green Infrastructure to the local environs and make the Gateway Site more appropriate in its setting. In this context it will have a positive impact on the criterion “*to assist in safeguarding the countryside from encroachment*” for which it received negative scoring, particularly set against the adjoining sub-regional employment allocation.

7.20 Taken on the whole, it is clear that the Green Belt Parcel C11 should have been appraised more appropriately and the Council must have due regard to significant changing circumstances in reaching its conclusions now. RPS contests that the Green Belt Assessment is accurate and that a correct assessment (**based upon the Council’s own evidence**) would have indicated the following.

To check unrestricted sprawl of large built up areas	To prevent neighbouring town from merging into one another	To assist in safeguarding the countryside from encroachment	To preserve the setting and special character of historic towns	To assist in urban regeneration by encouraging the recycling of derelict and other urban land.
Contributes to preventing sprawl from Stoneleigh, Baginton and sewage works	Does not prevent neighbouring towns from merging into one another	Contributes to safeguarding the countryside from encroachment, particularly accommodating the Gateway Site proposals	Does not contribute to the setting and Special Character of a Historic Town*	Retention of Green Belt land will encourage recycling of derelict and other urban land

*\*Historic Towns defined as Warwick, Royal Leamington Spa, Kenilworth and Stratford-upon-Avon.*

7.21 On the basis of the above, the site should have been appropriately assessed in the consideration of Green Belt options previously. Again the site has been prejudiced by inaccurate use of evidence.

7.22 Furthermore it can be demonstrated by the above, and with the Council's own evidence base, that the location is entirely suitable and appropriate for removal from the Green Belt as a sustainable urban extension to Coventry linked to the Gateway Site.

7.23 The identification of a sub-regional employment allocation in this location, on a strategic north/south corridor linked to the wider Nuneaton, Coventry Warwick Technology Corridor identified in the CWLEP Strategy for Growth provides exceptional circumstances to meet the needs of it in a sustainable location on the edge of the Gateway Site at Baginton.

*Recommendation to make sound*

- 7.24 The existing Green Belt review already provides sufficient evidence (albeit in need of correction) to identify a sustainable urban extension on the edge of Coventry and the Gateway Site. Notwithstanding RPS's fundamental objection to the lawfulness of the Plan, a review of the strategy and the approach should identify further Green Belt releases on the edge of Coventry adjacent the Gateway Site at Baginton.

## 8 POLICY DS20 ACCOMMODATING NEED ARISING FROM OUTSIDE THE DISTRICT

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### Introduction

- 8.1 RPS objects to the fundamental basis of this policy. It is not justified and is unsound. It is incorrectly predicated on unmet need arising from outside of the District and fails to reflect the commitment given by the authority in the Coventry and Warwickshire Local Enterprise Partnership ‘*Strategic Growth Plan*’ to have in place its housing requirement and to have completed any review to accommodate additional housing by March 2015.

### Basis for objection

- 8.2 The Council has set out that it is unable to determine the following and that it proposes a review mechanism to address sub-regional housing need:
- Whether Coventry can meet its own need, or whether it will require assistance from neighbouring authorities (Warwick Local Plan paragraph 1.22 refers);
  - Whether Warwick will be requested to accommodate unmet housing need from Coventry (Warwick Local Plan paragraph 1.22 refers)
  - If it is required the Council is committed to an early review of its Local Plan to address any shortfall in the sub-regions housing provision ((Warwick Local Plan paragraph 1.23 refers)
- 8.3 RPS objects to the review mechanism as it is not justified and thus unsound.
- 8.4 Paragraph 182 of the NPPF sets out that plans should be tested as to whether they are positively prepared. Positively prepared is stated as “*the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development*”
- 8.5 Importantly, paragraph 182 refers to objectively assessed development requirements and unmet requirements from neighbouring authorities and that this is not specifically restricted to housing. Unmet development need comprises economic needs also. In this context, it can be observed that there is a sub-regional need for an employment location such as the Gateway site and that this is located within Warwick District, not outside of the District.
- 8.6 As such Warwick District is already accommodating sub-regional employment requirements under the DtC within this current plan without the need for a review. It is planning positively for new employment provision based presumably based upon the assumption that the Gateway Site is the appropriate location for sub-regional employment.
- 8.7 This decision to allocate the Gateway Site, for which there is an application minded to grant by the Authority, must have occurred with sufficient time to agree a sub-regional approach to housing. However, there is still no sign of any ‘housing and job balanced’ agreement on



associated levels of housing provision. The reason given is that context, the Council still claims that it does not know the capacity and needs of other districts and that a review mechanism is the only approach that it has considered.

8.8 The review is therefore predicated on the unknown capacities and needs of adjoining authorities to accommodate their own need. No reference is provided to the ability of Warwick or neighbouring authorities to accommodate need from within Warwick from the Gateway site.

8.9 RPS therefore considers that this policy is predicated on an assumption that Warwick is expecting to be asked to accommodate unmet need from other authorities. **However, RPS sets out that Warwick in fact is going to require other authorities to assist it with provision of additional housing to accommodate and balance the provision of employment land that it is seeking to allocate at the Gateway site.**

#### *Evidence*

8.10 The evidence presented to the Warwick District Council's Planning Committee indicates that the Gateway Site could generate up to 8,200 jobs, of which only 1,200 are associated with Warwick and 4,900 associated with the Coventry and Nuneaton area. In this context, there are no provisions that RPS is aware of in Coventry or Nuneaton, or other adjoining authority, to make provision for levels of housing to balance the provision of 235ha of employment in Warwick.

#### *Proposed Review Mechanism*

8.11 The Council has set out that it will review its plan if the need arises in a neighbouring authority and it is evidenced that it is required to accommodate that need in Warwick District. **It has, however, also committed itself to completing any review by March 2015** as part of the CWLEP Statement. This review must therefore need to commence immediately and be reflected in the document.

8.12 However, RPS considers that a review mechanism is not required and that it is Warwick District Council that has a significant unmet need that needs to be addressed by adjoining authorities rather than it be seen as an imported of unmet need from elsewhere.

8.13 In this context a review mechanism is inappropriate and unsound and positive proposals are required to demonstrate how the need being generated in Warwick District is positively planned for and accommodated in Warwick, and adjoining authorities..

#### *Recommendation to make sound*

8.14 RPS considers that the Council has completely failed to understand its own strategy for growth and the balancing of economic growth and the provision of new homes. It has sought to allocate a sub-regional employment allocation that provides 235ha of employment land over and above its own employment requirements with no strategy or agreements in place with adjoining authorities on employment land provision, and furthermore makes no allowance for housing associated with it.

8.15 **The allocation is within Warwick and therefore it is Warwick's responsibility to address the housing need arising from it, be that within its own District or through agreement / cooperation with others.** It has set out that all housing need will be established by March 2015, including a review of any need figures. The Council should therefore act on this and establish

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with its SHMA partners the need for cross boundary cooperation on employment and housing provision.

- 8.16 The plan should therefore positively identify a level of housing associated with the Gateway Site for Warwick specifically, and in seeking to promote sustainable patterns of development, seek to maximise the level of new homes within close proximity to the Gateway Site. It should then identify what is required to be accommodated by neighbouring authorities as part of unmet need for Warwick.
- 8.17 The plan should make allowance for an urban extension to Coventry adjacent to the Gateway Site that can meet a significant component of the housing needs to support the sub-regional employment allocation as part of Warwick's own contribution and that of other authorities.

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## 9 LAND AT BAGINTON SUSTAINABLE URBAN EXTENSION

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9.1 RPS has set out in Appendix 2 the lengthy process by which the land at Baginton has been promoted to the Council and the Council's absence of fully appraising the site appropriately within the plan making process or the SA/SEA process, which RPS considers a serious procedural failure.

9.2 The land at Baginton offers an exceptional opportunity to link housing to the employment growth proposed at the Warwick Gateway site and located on the periphery of Coventry City/CWLEP North South Corridor. The following provides a site specific summary of the proposal which can provide up to 1,000 dwellings on the edge of Coventry and the Coventry Gateway Site.

### **Suitability**

9.3 The site has been promoted through all previous stages of both the Warwick and Coventry Local Development Framework processes, as an appropriate site for a Sustainable Urban Extension. The site at Baginton/Coventry Gateway therefore should be recognised by the Council as a sustainable site adjacent to the urban area and large-scale employment. It could accommodate a significant proportion of housing that would contribute towards the growth of Coventry and support the Gateway scheme, ensuring compliance with the NPPF in relation to the duty to co-operate, and should be allocated within the Local Plan.

9.4 The site was identified in the 2012 SHLAA, ref. C10, but was discounted as being unsuitable for residential development due to landscape impact, noise and air pollution from the airport, and air pollution from the sewage works. Extensive technical assessments have been undertaken for the site in relation to flood risk, noise, ecology, conservation and heritage and landscape, which have previously been submitted to the Council. These reports demonstrate that the site is suitable for a significant residential-led development either in isolation or in connection with proposals for the wider area. An Air Quality Assessment can also to be undertaken to demonstrate the site's suitability for development. The principal reasons for discounting the site from the SHLAA as being suitable are therefore all unjustified and evidence has/can be provided to demonstrate already that the site is suitable.

9.5 The 2014 SHLAA indicates that part of the land is now suitable but the Council still presents no evidence on why the land is unsuitable of noise and odour, **contrary to the evidence provided by RPS and submitted alongside this representation.**

### *Landscaping*

9.6 Land at Baginton can be developed without harm to the local landscape and a promotional document is included in Appendix 3 which outlines the landscape assessment work that has been undertaken on the site.

9.7 The site is included within the Warwick District Council's Sustainable Landscaping study (2012) that considered the area around Coventry Airport, Baginton and Bubbenhall. The brief for the Council's study (paragraph 2.3 of the document) is to consider the potential cumulative landscape effects of larger developments in the district.



9.8 One of the five study areas assessed by the document is “Coventry Airport, Baginton and Bubblenhall (C10a/b and C11a/b/c – JGBS)”. This area (C11) includes SHLAA site C10 which is the area of land promoted by RPS on behalf of Lenco Investments.

9.9 The report sets out that it:

**“reviews previous data and current reports and representations for development proposals in the localities. It then seeks to identify some landscape planning principles for these areas based on existing character, views, landscape condition, settlement pattern, access, planting goals and other criteria”.**

9.10 The conclusion of the assessment of this area indicated that:

**“proposed residential development adjacent the River Sowe (SHLAA site C10) may have potential to assist in developing local green infrastructure assets, although proximity to the airport could be a constraint. Retaining a ‘buffer’ of agricultural land between C10 and the adjacent airport / gateway project is suggested – but some generous provision of green infrastructure within the Gateway project will also be necessary”.**

9.11 It is also noted in its conclusions, that the indicative masterplan and imagery used illustrates the compatibility of the land promoted by RPS in landscaping terms and at no point in the document has the site been discounted as unsuitable in landscaping terms. An extract of this is repeated below.



9.12 It is therefore clear from the Council’s own evidence that the scheme can be fully integrated into the local area without impacting upon the local landscape.

9.13 The site is acknowledged in the Council's own evidence as being capable of integration into the landscape and having positive benefits for the expansion of the Gateway site.

9.14 RPS has previously submitted landscape evidence to the Council by way of an industry standard Landscape and Visual Impact Assessment and on the basis of this, and the Council's own Landscape evidence, the site is suitable for development on landscape grounds.

*Other suitably considerations*

9.15 While it is acknowledged that the site is within the Green Belt, the site contains no constraints that preclude development on the site.

9.16 The 2014 SHLAA maintains that there are noise and odour constraints, however, the Council has never presented RPS with any evidence that these exist. Conversely, RPS has provided evidence that they do not exist.

9.17 It is therefore concluded that the site is entirely suitable as defined for development in the promotional document appended.

**Availability**

9.18 The site is entirely available in one ownership without land owner or any covenant constraint. This is confirmed in the 2014 SHLAA. The site is available for development within the first five years of the plan period if allocated.

**Achievability**

9.19 The site is physically constraint free. It is a greenfield site that contains no constraint to delivering housing early in the plan period. It is entirely deliverable within the plan period and can contribute to housing in the first five years of the plan and throughout.

**Conclusions**

9.20 While it is understood that the site lies within the Green Belt, there site is entirely suitable, available and achievable for the purposes of the NPPF.

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## 10 CONCLUSIONS

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- 10.1 RPS has set out how the Council has failed to produce a lawful plan on two counts. It has also set out that aside from the unlawfulness of the approach, it has also failed to prepare a sound plan. This is summarised below.
- 10.2 The Council has failed to prepare a lawful plan on the basis that:
- It has not complied with the Statutory Duty to Cooperate as it has allocated a sub-regional employment location within the District that generates substantial employment and housing need without any sub-regional agreements in place on the provision of employment land and associated housing provision being in place. It assumes that it can allocate a strategic employment site of 235ha of employment land without having any impact on the sub-regional housing needs or implications for other authorities' employment land portfolios. It is therefore a net generator of both employment and housing need for which is a *strategic matter* for which there is no agreement or demonstrable cooperation in place for; and
  - It has failed to meet the statutory requirements of SEA/SA in that it has failed to fairly, equitably and publically appraise the land at promoted by RPS within its appraisal process. The evidence presented by the Council demonstrates that this is the case as the site fails to appear in any historic or recent appraisal process. RPS has also presented a chronology of evidence in Appendix 2 of this statement.
- 10.3 The Council has failed to prepare a sound plan on the basis that:
- It has failed to identify its Objectively Assessed Need for new homes. The evidence that is used to inform the latest plan is inconsistent and not robust. There are also significant inconsistencies in the data used in the plan, that of the CWLEP and the evidence base. The objective assessment of need is considerably higher than presented;
  - It has failed to establish a jobs-led approach to its policies, despite this being a fundamental driver of the plan in its Strategy and Objectives. The policies in the plan fail to deliver on what the plan sets out to deliver. It is therefore unsound against its own strategy aspirations;
  - The objectively assessed need fails to accommodate PPG requirements of planning for affordable housing and to take into account market signals in uplifting the housing need;
  - Linked to its failure to comply with the Statutory Duty to Cooperate, it fails to acknowledge that it is a net generator of employment and housing need and as such fails to identify sufficient land and sites to meet this need.
- 10.4 As set out above, RPS has a number of fundamental objections to the Plan that run to the heart of the process. RPS does not believe that the Council has met its lawful requirements in the first instance and the Plan should not have been submitted for examination. Furthermore, RPS also considers that there are significant failings in the Plan's proposals and the Plan is unsound on many counts.

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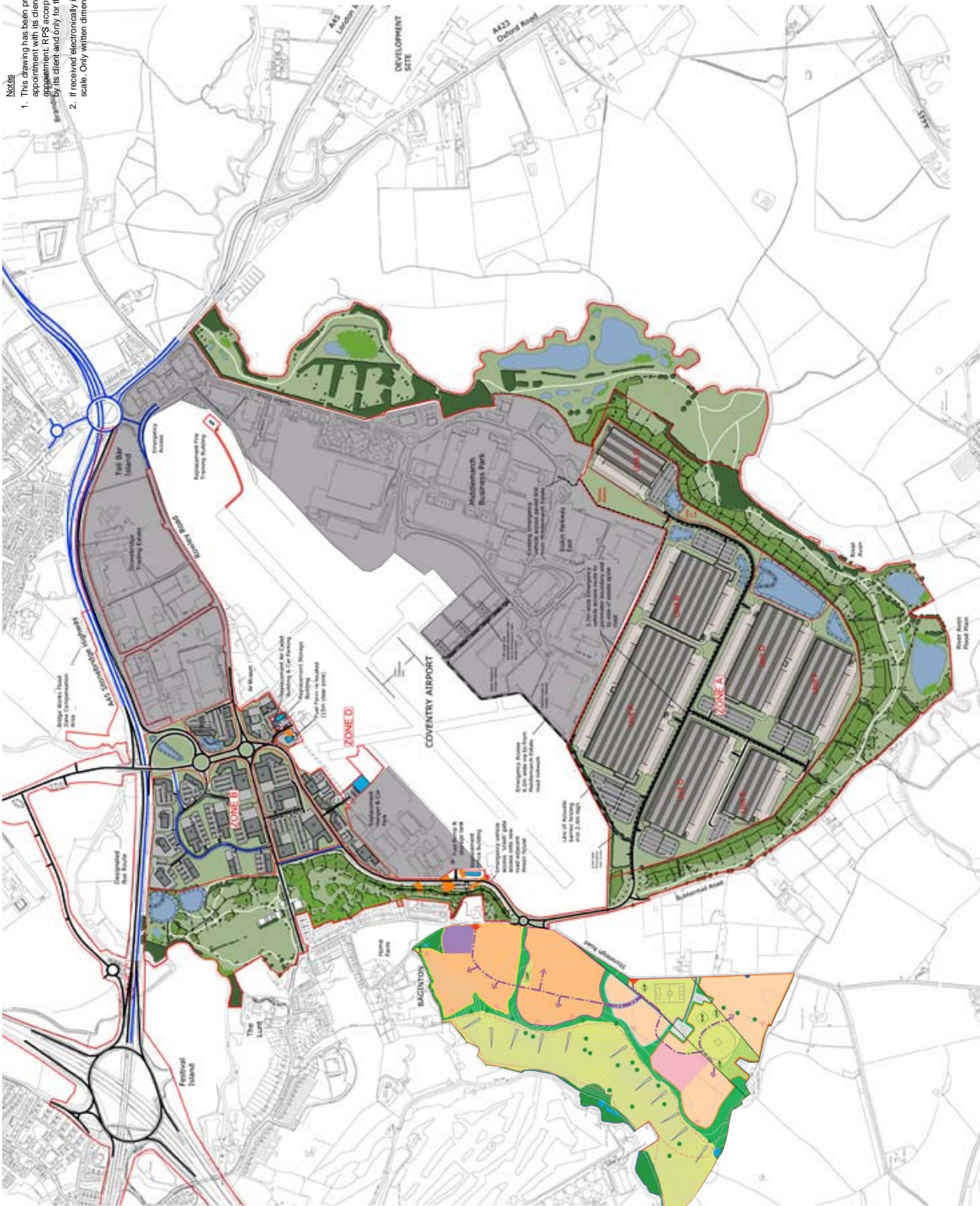
10.5 RPS considers that the land to the South of Coventry should have been appropriately considered and that it provides a logical and sustainable location for development adjacent the Gateway Site. As such it will provide for new homes to meet the needs of Warwick, Coventry City and that need generated by the Gateway Site.

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# APPENDIX 1 SITE PLAN

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**Notes**

1. This drawing has been prepared in accordance with the scope of RPS's appointment with its client and is subject to the terms and conditions of that appointment. RPS accepts no liability for any use of this document other than that intended by its client and only for the purposes for which it was prepared and provided.
2. If received electronically it is the recipient's responsibility to print to correct scale. Only written dimensions should be used.

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Project **Land South of Coventry City**  
 Title **Masterplan Comparison**  
 Client **Lenco Investments**

Drawing Number  
**00**  
 REV  
**02**

Status  
**FINAL**  
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**JP**  
 Scale @ A4  
**NTS**

PM/Checked by  
**TW**  
 Date Created  
**26/06/2014**

Approved  
**Approved**



## APPENDIX 2 CHRONOLOGY OF FAILURE TO ASSESS LAND AT BAGINGTON EQUITABLY, PUBLICALLY AND FAIRLY

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1. RPS has made comments to all stages of the Warwick District Local Plan and previous versions of the now discontinued Core Strategy. Representations have consistently supported the inclusion of Land at Baginton within the development plan as a sustainable location to accommodate both the housing needs of Warwick District, and also any cross boundary needs associated with Coventry City.
2. While it is understood that the Council is currently at examination **the process to date can be demonstrated as having inappropriately excluded from the evaluation process not only a suitable site for a strategic allocation, but also the potential of the land promoted by RPS to provide a more appropriate and sustainable local extension to the village of Baginton.**
3. The following chronology sets out the failings of the process to date that has led to the exclusion of the land promoted by RPS from appropriate evaluation. It provides a chronological outline of information supplied to the Council in respect of the evidence required to appropriately evaluate the site for both strategic and local allocation purposes, parts of which have not been acknowledged or used by the Council to date. **This has resulted in the land controlled by Lenco Investments being absent from both strategic and local allocation appraisal processes to date. This is an error for which the liability lies entirely with the Council.**

### Strategic Environmental Assessment requirements

4. When preparing its development plan the Council is statutorily required to consider reasonable alternatives under the Strategic Environmental Assessment (SEA) Directive (2001) and the Environmental Assessment of Plans and Programmes Regulation (2004). In this context, a number of pertinent legal judgements have provided clarity on the application of both pieces of legislation.
5. From these judgements it is clarified that the authority should evaluate all reasonable alternatives taking into account the objectives and geographical scope of the plan<sup>6</sup> and that where reasonable alternatives exist they should be evaluated to an equitable level by **fair and public** analysis<sup>7</sup>. Furthermore, the authority should ensure that its option appraisal process and the Sustainability Appraisal (SA) evaluation process are based upon the most up to date evidence. In respect of this, and while it is open to an authority to reject alternatives at an early

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<sup>6</sup> Article 5.1 of the Strategic Environmental Assessment Directive

<sup>7</sup> Judgement Case CO/3983/2011, Mr Justice Ouseley, Paragraph 71, (Heard versus Broadland District Council, South Norfolk Council and Norwich City).

stage of the process and decide not to revisit them, the proviso for this is that there is no change of circumstance to warrant revisiting options<sup>8</sup>.

6. It is demonstrated below that the authority has not considered all reasonable alternatives within the geographic scope of the plan, has not evaluated or subject the alternatives to the same level of fair public analysis and has continued to reject a site as being suitable despite significant changes of circumstance early in the plan process. It has therefore failed to comply with the above statutes as clarified by recent case law.

#### **Land at Baginton as a reasonable strategic alternative**

*Core Strategy Issues Paper 2007 (now superseded)*

7. In November 2007 the Council published an Issues Paper and RPS responded accordingly. The Issues Paper did not, however, consult on site based options.

*Core Strategy Options Paper June 2008 (now superseded)*

8. RPS has been promoting the Land at Baginton to the authority as a strategic site from as early as 2008. During 2008 RPS met with Council Planning Officers to establish the evidence that the Council would specifically require to consider the site. Following this meeting, appropriate representations were made to the Council's Core Strategy Issues and Options in June 2008 supporting the broad direction of growth option south of Coventry at Baginton Village.

*Core Strategy Preferred Option 2009 (now superseded)*

9. In 2009 the Council published a Core Strategy Preferred Options document but this did not include Land at Baginton as a potential suitable option. This was understood to be on the basis that the 2009 SHLAA evaluated the site and identified it as unsuitable for development. The principal environmental constraints cited were landscape, noise and odour.
10. In respect of these alleged constraints, RPS had already engaged with the Council's Environmental Health Officers (EHO) at the outset of the site's promotion. The Council's EHO officers concluded that with appropriate mitigation measures the presence of the sewage works to the west of the site would not preclude residential development of the site. **Council officers had therefore already concluded that odour was not a preventative constraint** to development on the land promoted by RPS.
11. RPS made the Council's Planning Officers aware of the above discussions and the conclusions of its EHOs in its duly made representation to the Preferred Option in 2009. RPS also submitted a promotional document to the Council in February 2009 that specifically addressed the landscape and noise constraints to the strategic site.
12. In the 2009 duly made representations, RPS also responded specifically to Question 10 of the consultation document. This question asked whether the Council had identified all the

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<sup>8</sup> Judgement Case CO/6882/2010, Mr Justice Collins, paragraph 16 ( Save Historic Newport Ltd and others versus Forest Heath Council and others)



reasonable options. In response to this question, RPS specifically commented on the 2009 SHLAA assessment in respect of noise, odour and landscape, setting out that these issues had been resolved and were no longer constraints. **In the representations RPS also referred to the communication with the Council's EHO confirming this.**

13. Given that during the consultation of a development plan consultees are invited to respond to both the consultation document and the evidence upon which it is founded, RPS used the Preferred Option consultation as the conduit to reconfirm that the constraints in the 2009 SHLAA were not present on site. RPS also confirmed that it **had already provided** the Council with the evidence to address the 2009 SHLAA position prior to the Preferred Option consultation.
14. The 2009 RPS representations therefore reconfirmed the information already submitted and set out that the site was suitable, particularly in respect of **odour, as already concluded by the Council's own EHO**. As such, the site should have been included in the Preferred Option document as a reasonable alternative for consultation and SA/SEA given that it was promoted to the Council early enough along with supporting evidence.
15. RPS is therefore on record as providing a duly made representation to both the Council's development plan process and the evidence base upon which it was based, in particular its SHLAA process in 2009 to the effect that the constraints in the SHLAA do not preclude development on the site.

#### *Alternative Sites 2010*

16. Following the Preferred Option consultation, the Council consulted on alternative strategic sites in 2010. This was to allow sites that had been promoted to it from the Preferred Option to be presented for public consultation.
- 10.6 Within this document the Council published Alternative Site 6 at Baginton. This was promoted by Sworders and was an area of almost 400ha around the south of Coventry Airport, north of Baginton and stretching westward to include the golf course. Due to the scale and extent of Alternative Site 6 promoted by Sworders, it encompassed the area of land promoted by RPS.
17. The site, however, did not represent Lenco Investment's interests, which is only 50ha of land, nor did the consultation distinguish the land delineated by the RPS's representations as an alternative in its own right. Alternative Site 6 was therefore by scale, nature and submission not representative of the land RPS was promoting, or reflective of the discussions being held between RPS and the Council officers. It did also by scale, prejudice the proper consideration of a smaller strategic site of only 50ha of land. Representations to a consultation of some 400ha of land covering an extensive area of south Coventry could not therefore relate to a site of a smaller scale where environmental evidence provided by RPS for the 50ha extent deemed it suitable.
18. Furthermore, RPS is also concerned that despite promoting the site since 2008 to the Council, and the authority ruling the site out in the 2009 SHLAA, the Council chose to publish a consultation document in 2010 that did not contain the site promoted to it by RPS because of the findings of the 2009 SHLAA, but did publish a far more extensive area of land for consultation when that land had not been assessed via SHLAA. RPS is of the opinion that the land promoted by RPS has **not been fairly and equitably subject to public analysis**.

19. In response to this Alternative Sites consultation, RPS submitted representations to the Council including the resubmission of a promotional document already submitted to the Council in February 2009. In the representation RPS also categorically set out that the Land at Baginton was being promoted by RPS independently and separately from that of Alternative Site 6 (Sworders), and should be considered as such.

20. The representations made in 2010 by RPS also repeated the detailed response made to the 2009 SHLAA to the effect that the conclusions that were considered to deem the site unsuitable were incorrect, and not founded on robust evidence. Specifically, the representation **reiterated the response made in respect of the 2009 SHLAA regarding odour, noise and landscape.**

#### *Summary*

21. RPS is therefore of the opinion that the Council had within its discontinued Core Strategy process:

- unjustifiably dismissed Land at Baginton worthy of public consultation as a realistic alternative in the 2009 consultation document based upon its status as unsuitable in SHLAA which was based upon no evidence; and
- not included the Land at Baginton promoted by RPS again for public consultation in 2010, despite RPS addressing the 2009 noise, landscape and odour SHLAA issues specifically on two previous occasions, including through duly made representations; and

22. It is therefore the position that up to 2010, the Land at Baginton had been prejudiced from being subject to public consultation and SEA/SA evaluation by the Council, despite RPS's constant representations and submission of evidence. Furthermore, alternative sites including the wider area of Alternative Site 6 had been subject to public consultation by the Council with little or no supporting evidence submitted, and no assessment within SHLAA. The publicly fair and equitable evaluation of Land at Baginton had failed.

#### **The New Local Plan**

##### *The New Local Plan 2011*

23. With the transition to the Local Plan process in 2011 (rather than the continuation of the Core Strategy), the Council published the '*Local Plan, Helping Shape the District*' consultation in March 2011. This considered a number of strategic options. In response to this (July 2011) RPS again made specific representations relating to the need for the Council to appropriately consider Land at Baginton and confirmed that the issues relating to the site's suitability had already been addressed and forwarded to the Council.

##### *Preferred Options Local Plan 2012*

24. Following the 2011 consultation the Council published its Preferred Options document in May 2012 along with the accompanying Sustainability Appraisal Report. This document contains the preferred approach for delivering growth around the south of Coventry City. This was the identification of 880 dwellings at Westwood Heath. No other alternatives were presented, and again Land at Baginton did not feature as a reasonable alternative or as a discounted site. This is now understood to be on the basis that the 2009 SHLAA had been updated and the Land at

Baginton was still deemed to be still unsuitable, with principally **odour** and **noise** remaining the constraining factors to the site's suitability.

25. As such Land at Baginton was again excluded from being subject to public consultation or assessment within the Councils SEA/SA process. This is hard to understand given RPS's engagement in the Councils Local Plan and Core Strategy development plan processes to date which had included:
- Confirmation from the Council's own EHO that **noise** and **odour** were **not** overriding constraints to development and could be mitigated;
  - RPS providing confirmation of the above discussion and evidence of this and other environmental issues through duly made representations in 2008, 2009, 2010 and 2011.
26. RPS therefore responded to the Council's consultation again in 2012, stating that the Land at Baginton was entirely suitable and should have formed part of the Council's appraisal process. More specifically the representations again stated that RPS had already provided the Council with the necessary information to address the SHLAA constraints on **noise, odour and landscape**.

*Revised Development Strategy*

27. In 2013, the Council published its Revised Development Strategy. This document contained no strategic sites for the peripheral area of Coventry City and sought to establish a development strategy for the District in the absence of evidence of unmet need from Coventry City. RPS again submitted representations to the Council's consultation to the effect that Coventry City's needs are most likely to be required to be met in part by Warwick District, and that Land at Baginton should be considered appropriately within this debate.
28. The Revised Development Strategy was also accompanied by a Final Interim SA Report. In this it sets out the sites that have been considered, including the preferred sites and those that have been discounted along with the reasons for each. Table 4.1 provides this information in the context of the requirements of the SEA Directive. However, Land at Baginton does not appear within this table at all. This is particularly concerning as Table 4.1 includes other sites where the SHLAA assessment deemed them unsuitable, as has been the case with the Land at Baginton.
29. It is therefore clear that the land promoted by RPS, where evidence has been provided since 2008/09, has never been subject to public consultation **nor has it been considered within the Council's SA/SEA process**. This clearly demonstrates that the site has not had a fair, equitable and public analysis<sup>9</sup>. **As such RPS is of the opinion that the emerging plan is unlawful.**

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<sup>9</sup> Judgement Case CO/3983/2011, Mr Justice Ouseley, Paragraph 71, (Heard versus Broadland District Council, South Norfolk Council and Norwich City).

*Emerging Pre-Submission Plan*

30. Following the representations to the Council in 2013, RPS met with a representative of the Council's planning team on 26 September 2013 to discuss the site and its consideration within the Council's development plan process. A key component of the meeting was that despite evidence being provided to the Council by RPS as far back as 2009, the 2012 SHLAA assessment was identical to the 2009 document in content and conclusion.
31. The outcome of the meeting was that the Council officers were to advise RPS on what elements of the evidence base they felt were still outstanding. The response from the Council was received on the 31 October 2013, as below.

***“When the site was first assessed we consulted Environmental Health colleagues on the physical constraints and environmental conditions. Their view was that there was the potential for future residents of the site to experience noise from Coventry Airport and airborne pollution from the sewage works. The impact of both was uncertain [RPS emphasis] and hence the ability to deal with them through mitigation was also uncertain. They also had concerns that in the event that housing uses were introduced to the area this could restrict operations on these adjoining sites.***

***The site was not included as a preferred strategic site in the Core Strategy Preferred Options which was the subject of consultation in Summer 2009. RPS objected to the omission of the site on the grounds that the constraints highlighted in the SHLAA could be resolved through mitigation measures. However, although some work had been carried out on issues such as transport and landscape, no work had been carried out in respect of the impact of noise from the airport (in terms of levels and timing) or smells (in terms of sources, levels and areas affected).***

***When the Council reviewed the SHLAA in 2012, letters were sent to all site promoters asking if any changes to site details needed to be included. As far as I am aware, no further details were received about this site. There was no reason, therefore to alter the original assessment”.***

32. In respect of the points raised above, in its duly made representations in 2014 RPS referred the Council to the chronology set out above and specifically:
- It is noted that in the response from the Council's own internal consultation with Environmental Health colleagues was inconclusive and the potential impact was ***‘uncertain’***. It therefore appears that the site was discounted as a reasonable alternative on odour and noise within the 2009 SHLAA, based upon **no** firm evidence and only ***‘uncertain’*** effects. RPS contests that this is an appropriate manner in which to exclude a site in the first instance. Also in updating its SHLAA, the Council should have ensured that its evidence was robust and decisions justified, particularly in respect of paragraph 158 of the NPPF of using proportional evidence. It is fully appreciated by RPS that the authority needs to consider the evidence and the proportional relevance of evidence collected, but this must also be proportional to the decision being made. In this

context, when making strategic decisions to exclude a significant site from public consultation and SEA/SA process the Council should ensure that its evidence is robust enough to stand scrutiny at examination. In this instance it is clear that the evidence to exclude the land base upon noise and odour was far from robust originally and that the Council Planning Officers should have liaised with their own internal EHOs to ensure that the position had not changed in 2012 since 2009. If they had, as RPS has done, then the conclusions would have been as RPS has found;

- the evidence presented to the Council in 2009 and 2010 by RPS (through the development plan consultations) set out specifically that the Council's EHO concluded that odour **did not preclude development** from the site and could be mitigated;
- In respect of the second paragraph of the Council's response above, representations were made in 2009 and 2010 that addressed both noise and air quality. Specifically, air quality discussions had been held with the Council's own EHO and the conclusions provided based upon this dialogue and engagement. In respect to noise, the masterplan had considered and accommodated this into the design from noise contour evidence and was submitted alongside representations to that effect in 2009 and 2010. It is therefore incorrect to state that no work had been carried out on both.
- In respect of the last paragraph, RPS is not aware of a letter received in 2012, although it did receive a letter in 2011. However, representations had already been made to the Council in 2009 and 2010 in respect of the SHLAA assessment with the 2010 representations **specifically addressing the SHLAA odour and noise position**. RPS therefore directs the Council to the duly made representations to the development plan already sent and while the Council can seek additional information from all promoters of land to SHLAA via separate correspondence, RPS can evidence that the Council was already in receipt of the additional evidence from RPS in respect of noise and odour. This was provided through ongoing engagement within the development plan process since 2008. **Therefore the liability for the site's exclusion from the 2012 consultation document lies entirely with the Council and it has been erroneous in not taking into account duly made representations that specifically addressed SHLAA evidence requests.** It has therefore failed to update its own outdated understanding of the site with the information provided by RPS.

33. It can be observed that the Council's understanding of what evidence it holds itself is misplaced and resulted in prejudicing the site.

*Village Housing Options and Settlement Boundaries Consultation 2013*

34. RPS notes that within the consultation document in 2013 for accommodating development in the villages, a preferred site is included at Baginton Village. This is a smaller part of the site promoted by RPS on behalf of Lenco Investments. In the consultation document, it is noted that the Council still retained the opinion that noise and odour are a constraining issue on its preferred option site. However, the site is now contained within the plan as a preferred allocation. It appears therefore that despite any further work being undertaken by the Council to properly evaluate noise and odour of the site or wider area, it concluded that the smaller parcel of land is suitable for development and yet still retains that the remaining area of the land

promoted by RPS, including the land adjacent to the preferred site as unsuitable on noise and odour. There is no explanation or justification for this rationale or decision making.

35. Furthermore, the Council included the wider area of land now promoted by RPS for a sustainable extension to the village of Baginton as a sustainable area for residential living in its latest Gypsy and Traveller consultation document. It therefore considers the area of land entirely suitable for habitation in respect of odour and noise for the purpose of accommodating Gypsy and Traveller accommodation options but fails to acknowledge that the same circumstances exist for the purposes of dwellings. **This is nothing less than prejudicial.**
36. RPS therefore objects to the selective and inconsistent approach that the Council has taken where it continues discount parcels of Land at Baginton on no evidence (despite it being presented to the Council on many occasions) and yet at the same time inconsistently include other parcels of land adjacent to land controlled by Lenco Investments as a preferred housing allocation and suitable for development.
37. The Council cannot selectively choose to discount or include sites in exactly the same geographical area and adjacent to each other based upon no evidence to support either conclusion. RPS is of the opinion that the Council does not have the evidence available to it to enable it to distinguish between the suitability of two sites adjacent to each other and arrive at different conclusions for each site in respect of noise and odour.
38. Again, the land at Baginton in the ownership of Lenco Investments has been prejudiced in the development plan process and not featured within the Council's public consultation to allow fair, equitable and public analysis and scrutiny. **RPS is of the opinion that the current development plan approach remains unlawful.**

*Submission Draft Plan (2014)*

39. It is observed in the current version of the Plan that no significant development around the periphery of Coventry is included, however, there are sites that are strategic allocations within the Green Belt. The current Plan is accompanied by a Sustainability Appraisal which indicates in Tables 4.15 and Table 4.16 which sites have been appraised in the Council's SA process. Neither of these tables includes Land at Baginton as having been considered. RPS therefore observes that the Land at Baginton has not been appraised as a reasonable alternative to the current allocations, particularly other Green Belt allocations.
40. RPS has also appraised the latest Council SHLAA published in May 2014. As a result of the meeting with the Council, the SHLAA now identifies part of the site as suitable for development. However, again the Council maintains that there are significant constraints to the site in respect of noise and odour. RPS submitted extensive evidence to the authority in 2014 including Acoustic and Odour Reports outlining that the odour and noise constraints do not preclude development. The Council's SHLAA outlines that it acknowledges this information but states that further work is still required to demonstrate that the constraints can be overcome.
41. It is no incomprehensible how the Council can reach such decisions. RPS specifically requested from the Council the evidence that it felt was required in 2013 further to that already provided. RPS has provided this evidence in its entirety and appends to this representation.



42. **RPS contests that the Council holds any evidence that can support its statements that the site is unsuitable on odour and noise, as such the Council is still prejudicing the consideration of this site based upon no evidence.**

#### **Evidence Base**

43. RPS has prepared and submitted evidence to the Council in respect of the land that illustrates that the Land at Baginton is entirely suitable for development. A Noise Assessment and Odour Assessment has been prepared and have been submitted to the Council. These have both been prepared in liaison with the **Council's EHO, Environment Agency, Coventry Airport and Severn Trent**, and substantiate the responses submitted to the Council by RPS in 2009, 2010, 2011 and 2013 that **noise and odour are not constraining factors to development.**
44. RPS is of the opinion that despite evidence being presented to the Council to the effect that the Council's assumptions on these matters are incorrect and inconsistent with more recent advice from its own EHOs, the **further** evidence forwarded now in 2014 provides conclusive evidence that the site is entirely suitable for development and that it should be appraised as such from the outset. The conclusion from both the 2014 noise and odour reports is that the site is entirely suitable for development.
45. RPS is aware that **no** credible evidence is held by the Council to the contrary.

#### *Strategic Housing Site Selection Process*

46. The council has outlined in its Local Plan Site Selection Methodology (published on its evidence base website) that the starting point of site selection was the Council's Strategic Housing Land Availability Assessment (SHLAA). The methodology states at paragraph 1.2, that the SHLAA was the starting point and that sites that were deemed suitable, available and achievable were taken forward for more detailed appraisal. The results of this assessment are included within the tables that accompany the Council's methodology document on the website.
47. It is noted that this information is the precursor to all strategic site assessments and that if a site as considered suitable, available and achievable, irrespective of location and Green Belt status, it was assessed by the Council. Therefore by incorrectly appraising the land promoted by RPS in the first instance and not correcting that error within subsequent SHLAA processes based upon the evidence provided, the Council has carried the error through the development plan process and erroneously excluded the site. This exclusion from the process is not and cannot be justified on any account, at any stage.

#### **Conclusion**

48. From the above it can be evidenced that the Council has not only discounted the strategic site Land at Baginton at the early stages of the plan process on no clear evidence, it has persistently failed to take into account the evidence and representations made to it in respect of said site, that not only addresses the lack of evidence, but substantiates the position that the evidence was ill founded in the first place.
49. Rather than address the issue head on the Council seeks to maintain that that site is unsuitable based upon no evidence held by it.

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50. RPS submitted evidence in 2009, 2010, 2011, 2013 and 2014 (including evidence prepared in liaison with the Council's own Environmental Health Officers, the Environment Agency, Coventry Airport and Severn Trent) to demonstrate that the site is entirely suitable. This applies equally to local village allocation considerations.
51. **In respect of the SEA/SA legislation and case law arising from both, it is clear that the Council has failed its statutory duty to fairly, equitably and by public analysis evaluate Land at Baginton as a strategic or local reasonable alternative.** As such it has prejudiced the site's consideration in the development plan process by not taking into account RPS's representations to all stages of the plan. RPS has considerable evidence to this effect and can demonstrate that this at examination.



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# APPENDIX 3 PROMOTIONAL DOCUMENT

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# APPENDIX 4 REPRESENTATION FORMS

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