



Representation on Warwick District Local Plan:

Where the local plan falls down in respect of process.

Planning Guidance

The following outlines provisions to be found in planning guidance, in legislation and in Council policy that refer to the ways that matters relating to consultation should be dealt with by the Council.

NPPF, Annex 2

1. Definition: Local Plan "The plan for the future development of the local area, drawn up by the local planning authority in consultation with the community.

It " needs to be supported by a statement that, "contains the following information:

- i) a summary of the organisations with whom the Council consulted;
- ii) how those organisations were consulted;
- iii) a summary of the issues raised; and
- iv) how those issues have been addressed in the SPD.

The detailed requirements are set out in Statutory Instrument, 2012 No. 767, The Town and Country Planning (Local Planning) (England) Regulations 2012

Planning and Compulsory Purchase Act 2004

"...In preparing local development documents the authority must comply with their statement of community involvement.

WDC Statement of Community Involvement April 2014

"The SCI outlines the council's commitment to consult on the preparation of its planning policy documents"

SECTION 4 – Who will we involve in planning matters?

4.1 It is important that in preparing planning policy documents in the Local Development Framework and determining planning applications, the Council encourages participation from all sections of the community that will have an interest. The Council is committed to ensuring that this will happen. Those with an interest will include, in appropriate circumstances, local residents, local businesses, parish and town councils, local and national amenity groups

SECTION 6 - Principles of Good Consultation (Local Development Framework)

6. Why Consult?

6.1 The purpose of consultation is to involve the community from the beginning by asking how it can and should be involved with the planning process and add value to it. The responses given to our short questionnaire published in September, has helped us to understand who, how and when communities want to be consulted and this has informed the draft Statement of Community Involvement.

Responding to our future consultations will allow communities to play a full role in the future planning of Warwick district



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Capacity Building

6.3 This term is used to describe the way in which communities and individuals can become involved and empowered. In simple terms, this can be defined as 'developing the capacity and skills of the members of a community in such a way that they are better able to identify, and help meet, their needs and to participate more fully in the planning system'.³ The Council is committed to working with its partners in the community to achieve this.

6.8 Councillors will be kept informed of progress on the LDF and key consultation stages by written report through the Executive or Planning Committee where these responses relate to planning applications.

6.10 The Council will monitor the success of consultation exercises on an ongoing basis. A review of the SCI will be triggered where there is evidence that the consultation techniques outlined in the document are not as effective as the Council and the community would wish.

How community and stakeholder views will inform later stages of documents

7.3 The views expressed by those participating in the consultation process will be carefully considered. Wherever possible we will incorporate your ideas and your views will help us to shape not only the current documents, but also the ways in which we involve you in the future.

How we will inform you of what action we have taken as a result of such involvement

7.4 The Government expects feedback to be an integral part of the process of involvement. It is essential that this is built in to ensure that the results of community input are known. It will also be necessary to provide reasons why it may not have been practical to introduce a particular idea so that contributors gain a better understanding of the system and its limitations. It may be for example, that an issue is raised which planning legislation has no control over and cannot therefore influence. The results of consultation will inform the production of DPD's and SPD's, which we will publish on the website. In terms of policy documents, a table of the results of consultation will be produced at each stage with the council's response so that those sending in representations can see how their concerns have been addressed.

A plain English guide to the Localism Act, DCLG November 2011, on Pre-determination:

These rules (on pre-determination) were developed to ensure that councillors came to council discussions - on, for example, planning applications - with an open mind. In practice, however, these rules had been interpreted in such a way as to reduce the quality of local debate and stifle valid discussion. In some cases councillors were warned off doing such things as campaigning, talking with constituents, or publicly expressing views on local issues, for fear of being accused of bias or facing legal challenge.



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The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result.

Where the council has been going wrong

It is our view that the processes undertaken in the course of the preparation of the local plan by the District Council denied the public, councillors and other consultees genuine participation in the plan making process by:-

a) ignoring representations and/or delaying the council's responses to the representations until the plan had moved forward irrevocably

b) using delay of consideration of representations as a tool to enable pre-empting of the local plan by enabling developers and landowners to submit applications for development of the southern areas to which numerous and serious objections and representations had been lodged and not resolved.

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

In particular:-

- **By omission or neglect the council's elected members were not given the opportunity to give proper and timely consideration to representations made to the council by residents and other interested parties** in response to the consultation which took place in July 2013. We are not aware that members in general were afforded anything other than the opportunity to see summaries of the representations in March 2014 (nearly eight months later). This was at the same meeting that they were being asked to approve/adopt the local plan. Since it is the role of "officers to recommend and members to decide" such a process does not provide an adequate or satisfactory means by which members would be able to decide on the representations or enable them to influence how they should be treated. Furthermore, with such a process it is impossible for those who have made representations to be confident that any consideration could have been given to satisfying their concerns in the subsequent iteration of the plan.
- **Delayed consideration of the objections and representations allowed officers to press on with master planning for the areas south of Warwick, Leamington and Whitnash in the face of the objections** and by doing so by-passed the concerns of the objectors and those making representations. From the evidence of the proposals in the attached copy of the memo dated 2nd November 2013 from the Chief Executive, appended as Annex 2, we can see no evidence that the draft master plan which is the subject of this correspondence gave proper consideration to the shortcomings of the draft plan that were identified in objections and representations made in the previous July.



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- **Delaying consideration of the new ONS statistics on population growth** which will have a significant effect on a) the already disputed estimates of the five years housing supply - the consequence of which is that it would bring forward its achievement and b) the predictions of housing need over the plan period - the consequence of which is that substantially less homes will be required to cater for our future needs and so less precious agricultural land would be needed to be developed.
- **A culture where healthy debate of planning matters amongst elected members was quelled through persistent threat of "pre-determination"** in contravention of the intent set out very clearly in the plain English Guide to the Localism Act 2011 which stressed the importance of members being able to express their views on planning matters and "The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on."

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It is our view that by failing to comply properly with the requirements which are outlined at the start of this submission the Council has not followed the correct processes and has not properly engaged with its consultees and community. If a further instance of this is needed, one can mention the council's officers absenting themselves from the public meeting held at Warwick School to discuss the local plan in the early summer of 2013. All of which has led to a great deal of dissatisfaction amongst community and campaign groups over the interest shown by the district council in the concerns of Warwick residents and hence the ways that their legitimate concerns have been treated. It is our view that adopting these approaches shows the council has been reluctant to accept the role of community in the formulation of planning strategy, and so may have opened itself to the possibility of legal challenge about the processes it has used.

If the council continues to appear to fail to respond positively to community concerns by following the sorts of processes which this representation highlights there is little chance that the faith and trust that is so much needed between the groups, residents and the council will be re-established.

David Williams, DipTP., MRTPI Retd
Spokesperson, Save Warwick Group



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Annex 1 A plain English guide to the Localism Act DCLG November 2011

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

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



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Annex 2. Copy of Warwick District Council Chief Executive's memo dated 2nd November 2013 to Glen Langham, Consultant Planner, Turley Associates

Apologies for the quality of the following copy from the WDC website where it appeared as a background document to Application number W/13/1434 for a short time. It was subsequently removed. No doubt the council will be able to provide a better quality copy.

Andrew Haggitt

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

Importance: High

Dear Glen,

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

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

1. Progress on the Local Plan

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

2. Progress on the Master Plan

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

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

* Inclusion of the existing Myton School site for redevelopment for housing along with the land to the south which was subject to an application that was withdrawn. The intention is that this would with, the existing Myton area to form a new and distinctive neighbourhood "Myton Garden Village". In this area we'd anticipate largely housing area with open space based on the garden city prospectus we have promoted as well as roads/footpath/cycleway linking via the school site Myton Road, Europa Way and Gallows Hill with the potential to make the existing Myton Road a quieter slower road than the thoroughfare it is now.

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

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

3. Infrastructure Provision

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



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

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

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

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

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

Kind regards

Chris Elliott
Chief Executive