

SOLIHULL METROPOLITAN BOROUGH COUNCIL
EXAMINATION OF THE SOLIHULL LOCAL PLAN
INSPECTOR'S INTERIM CONCLUSIONS

1. The Inspector has now completed his initial assessment of the submitted Solihull Local Plan in terms of compliance with the legal requirements and soundness, as set out in the National Planning Policy Framework (NPPF; ¶ 182). This report considers the legal requirements, including the Duty to Co-operate, the housing strategy and the Main Modifications put forward by the Council. Having considered the plan and supporting evidence, along with the main issues raised in the representations, discussions, statements and responses made at the hearing sessions and in writing, the Inspector reaches the following interim conclusions:

a. Legal and Procedural Requirements

2. The preparation of the plan has broadly complied with the statutory legal and procedural requirements, including compliance with the Local Development Scheme and Local Development Regulations, Sustainability Appraisal, general conformity with the Regional Strategy and the Sustainable Community Strategy.
3. There are some concerns about the level and effectiveness of consultation undertaken towards the end of the plan-making process, when some additional housing sites were proposed. However, many representations were made on these sites, raising a wide range of issues which were discussed at the hearing sessions, and the consultation process met the minimum requirements of the Local Development Regulations and the Council's adopted Statement of Community Involvement.
4. Some amendments to the published plan were made before it was submitted to the Secretary of State, including a new section on the Duty to Co-operate, a new policy on developer contributions, additional justification for the Birmingham Business Park proposal, clarification of the policies for town centres and gypsies and travellers, and amendments to the boundaries of two allocated sites (Sites 1 & 31). Although these changes may not have affected the strategy and policies of the plan, there may have been a case to publicise and consult on some of these key changes, since they could go beyond the scope of minor errors and clarification and introduce substantive changes to the published plan. However, the Council has reconsidered the position and has included these amendments in its published Schedule of Proposed Changes¹.

Duty to Co-operate

5. There is some concern that the Council has not properly met its legal obligations under the Duty to Co-operate in relation to sustainable development, required by S.33(a) of the Planning & Compulsory Purchase Act, as shown by various statements and legal opinions. The Council has submitted extensive evidence² outlining how it has engaged constructively, actively and on an ongoing basis with neighbouring local authorities and other prescribed bodies during the preparation of the plan. Solihull MBC has an established record of commitment to joint working with neighbouring authorities and other key stakeholders. It has played a key role with its neighbours on cross-boundary issues, urban renaissance, housing, transport, Green Belt and the environment, both in the preparation and examination of the West Midlands Regional Strategy (WMRSS) Phase 2 Review and in its continued involvement in regional/sub-regional bodies and working groups. It has identified the key strategic issues which need to be addressed, and is actively working with the Greater Birmingham & Solihull LEP (GBSLEP), and with neighbouring authorities and other bodies on cross-boundary housing, regeneration, economic, employment, transport, climate change, environment, heritage, minerals and waste issues. It has influenced the emerging Strategic Policy Framework for the West Midlands Metropolitan Area, and is fully committed to ongoing co-operation and engagement by both officers and members, including the West Midlands Joint Committee and associated sub-committees, GBSLEP, the neighbouring authorities and other prescribed bodies.

¹ DHC26

² PSC4 – Duty to Co-operate Background Paper

6. In terms of the Duty to Co-operate, it is relevant to note that, currently, there are no specific or agreed requirements for Solihull to meet any of the housing needs of **adjoining authorities, or for any neighbouring authorities to meet any of Solihull's** housing needs. However, given that strategic matters of housing provision cut across **local authorities' boundaries, and that other cross-boundary** issues such as transport, heritage, nature conservation, minerals and waste are also relevant, there can be little doubt that the requirements of this Duty are engaged. It is also relevant to note that Birmingham City Council recognises the legacy of close working and co-operation with Solihull MBC and is content for the Solihull Local Plan to be progressed to adoption, provided that arrangements are put in place to enable the longer-term challenge of both the scale and distribution of growth to be addressed, if necessary through an early review of this Local Plan³. Furthermore, there are no challenges to this Duty having been met from other local authorities or prescribed bodies. In terms of the **process** of co-operating, the Duty has been met.
7. However, the **outcome** of this process is less satisfactory, particularly since the emerging Strategic Policy Framework⁴ only provides a general indication of the agreed sub-regional spatial strategy (including the continued commitment to urban renaissance), gives no precise figures in terms of development and infrastructure requirements, and seems to leave many key decisions and agreements for the future. The situation is made more uncertain by the apparent difficulties that Birmingham City Council is having in fully meeting its objectively assessed housing needs within its own boundaries⁵ and other authorities in the sub-region in failing to meet their housing targets or requirements⁶. However, these matters have not yet been resolved; work on the future needs of the wider housing market area has only just started, with no specific need or requirement for Solihull to meet, and no assumption or decision as to whether Solihull would **have to meet any of Birmingham's housing needs**. In such circumstances, it would be unreasonable to expect Solihull to delay or halt work on its local plan, particularly in view of the pressing need for a new local plan to be adopted, given the current lack of a 5-year housing land supply and the disadvantages of ad-hoc planning decisions and appeals.
8. Some suggest that strategic housing requirements have not been considered properly as part of the Duty to Co-operate. However, many of these matters are closely related to the NPPF soundness tests of the plan being **"effective" and "positively prepared"**. The Council has adopted a consistent approach, basing its local plan on the most recent independent objective assessment of housing requirements, including policy elements relating to the established strategy of urban renaissance and its associated distribution of development. The level of housing provision proposed for Solihull (11,000 new dwellings) accords with this assessment. Although more recent household projections might suggest that this figure might not fully meet the needs of the additional households projected over the plan period, both the Regional Strategy and the more recent Strategic Policy Framework confirm that Solihull is not expected to meet all its housing needs. **The WMRSS EIP Panel's figures address cross-boundary** housing issues, without giving rise to any shortfalls, in line with the NPPF (¶ 47). Concerns that there may be a significant under-provision of housing in the Solihull Local Plan may be misplaced, since there is little conclusive evidence to justify this conclusion and no neighbouring authority supports this view. It therefore cannot be assumed that Solihull does not intend to fully meet its objectively assessed housing requirements and has thus failed to meet the requirements of the Duty to Co-operate.
9. Some refer to the lack of any consideration of wider housing needs, including those of Birmingham and Coventry. However, Solihull has worked closely with Birmingham City Council in preparing its local plan, and work on establishing and meeting **Birmingham's** longer-term housing needs has only just begun. The proposed amendment to the submitted Local Plan⁷ specifically acknowledges the situation and the possible future need for Solihull **to assist in meeting some of Birmingham's housing needs if this** arises

³ DHC 23

⁴ OTH8

⁵ DHC 9

⁶ DHC 12

⁷ DHC26; Change 7

as a result of this further work. Coventry lies within a separate housing market area, separated from the main conurbation by the strategically important Meriden Gap, and is more closely associated with Nuneaton & Bedworth, Warwick and Rugby; there are no current strategic or housing requirements relating to Coventry which Solihull is expected to meet. Similarly, neither Coventry City Council nor its neighbouring authorities have made any objections to the Solihull Local Plan. The fact that the inspector examining the Coventry Core Strategy has concluded that the Duty to Co-operate has not been fulfilled in that case does not directly reflect on Solihull's position. Moreover, the circumstances in Coventry (and Milton Keynes, which is also quoted) are very different, since unlike Solihull, these plans propose housing provision figures significantly below those recommended in the relevant Regional Strategy.

10. There is also some concern that the Strategic Housing Market Assessment (SHMA) does not fully meet the expectations of the NPPF. However, when considered along with the preparation, examination and testing of the figures recommended in the WMRSS Phase 2 Review EIP Panel report, which fully addressed cross-boundary housing issues, the requirements of the NPPF (¶ 159 & 176-181) have been met. The proposed housing figure in the Solihull Local Plan **not only fully meets the "natural increase" needs of the Borough's population, but also** takes account of the necessary element of migration associated with the regional urban renaissance strategy. The continuing relevance of this strategy is confirmed in GBSLEP's latest Strategic Policy Framework⁸ and by other inspectors examining local plans and deciding planning appeals in the West Midlands. Although the WMRSS EIP Panel recommendations and SHMA are based on earlier 2006-based household projections, the latest 2008-based household projections actually estimate a slightly lower number of additional households in the West Midlands and in Solihull than envisaged in these earlier reports.
11. Having considered all the evidence, statements and discussions at the hearing sessions, I therefore conclude firstly, that the Duty to Co-operate is engaged, because of the need to consider identified cross-boundary strategic matters, including housing. Secondly, that the Council has met the requirements of that duty in terms of the *process* of co-operating and engaging with the relevant bodies. And thirdly, although the most recent *outcome* of that co-operation has some uncertainty, particularly as regards meeting the future housing needs of Birmingham, Solihull has identified and addressed all the strategic matters and requirements which it needs to meet at this current time. The legal requirements of the Duty to Co-operate have therefore been met.

b. Soundness issues

12. The most contentious issues relating to the soundness of the Local Plan relate to housing, both in terms of overall requirements and how provision will be made. This encompasses the basis for the overall number of houses to be provided and the key elements of housing supply, including in the North Solihull Regeneration Area, Solihull town centre, Local Plan allocated sites and the allowance for windfalls.
13. Dealing firstly with the overall level of housing provision, the submitted Local Plan proposes 11,000 new dwellings (2006-2028), including allocating new sites for 3,960 dwellings. The overall figure reflects the requirement recommended in the WMRSS Phase 2 Review EIP Panel Report, but this was never approved by the Secretary of State and the regional strategy is soon to be revoked. Nevertheless, the Panel's assessment represents the most recent independently examined objective assessment of housing requirements in the West Midlands, including cross-boundary housing market areas, environmental capacity and the strategic housing distribution policy elements related to the urban renaissance strategy. However, the base information is now becoming rather dated, since the Panel used the 2006-based household projections, rather than the more up-to-date 2008-based projections. These latest projections indicate a growth of some 14,000 new households in Solihull (2006-2028), a figure which is mentioned in the Local Plan, but the Council has not undertaken a more recent objective assessment of housing requirements. Some consider that the urban renaissance strategy is floundering, but this is an important element of the sub-

⁸ OTH8

regional strategy, established in 2004, and has been supported previously by inspectors examining plans and deciding appeals in the West Midlands. It is a long-term approach, that is now beginning to take effect⁹, and there is no conclusive or compelling evidence that this established strategy needs to be reviewed or amended.

14. The accompanying evidence sets out the basis and evolution of the proposed level of housing provision and explains the implications of the latest household projections¹⁰. Although household projections are a key element in undertaking an objective assessment of housing requirements, they are only one element; they are a snapshot in time and, being based on demographic trends, do not model housing need or the effective demand for homes¹¹. The Council explains that the 2008-based projections actually estimate a lower number of additional households (-2,000) than in the earlier 2006-based assessment, and considers there has not been any significant change in the population/household projections since the WMRSS EIP Panel Report figures were published. Since both the Regional Strategy and the latest Strategic Policy Framework confirm that Solihull is not expected to meet all of its housing requirements, it may not be necessary to make any additional provision to meet **Solihull's housing needs**, particularly if the proposed housing provision level exceeds that which would be **generated by the Borough's own population and includes an element** associated with migration, in line with the urban renaissance strategy. With the successful continued implementation of the regional urban renaissance strategy, there may not actually be any shortfall in housing provision as a result of the latest 2008-based household projections. However, in order to ensure that the basis of the Local **Plan's housing** strategy is sound, this should be confirmed in the Local Plan.
15. Moreover, if Solihull is not expected to meet all its housing needs, due to the adverse implications on the quality of environment and on the Green Belt, particularly in the Meriden Gap, this should also be explained in the plan, to ensure that the approach and basis for the proposed level of housing provision is robust and sound. Similarly, if the Council is relying on factors such as environmental quality and loss of Green Belt, these should be fully summarised (based on the accompanying evidence¹²), to demonstrate how any adverse impacts of making higher levels of housing provision would significantly and demonstrably outweigh the benefits of making such provision (NPPF; ¶ 14), particularly in terms of national constraint policies.
16. As regards the concerns about the adequacy of the SHMA, a joint SHMA, covering Birmingham, Solihull, Lichfield & Tamworth was undertaken¹³, and was updated specifically for Solihull in 2009, in line with national guidance at the time. It assessed the likely need for market and affordable housing over the plan period. Taken together with the work and evidence on housing need produced for this examination and that of the WMRSS Phase 2 Review, the SHMA meets the requirements of the NPPF (¶ 159). However, both the WMRSS EIP Panel report and the SHMA used the 2006-based household projections, rather than the more recent 2008-based projections, and the latest SHMA focused on assessing only the housing needs of Solihull. The Council recognises that the SHMA will need to be reviewed soon, to take account of more recent household projections and the needs of the wider housing market, and ensure that the plan is up-to-date, as envisaged in the NPPF (¶ 158). The supporting evidence¹⁴ confirms that the SHMA will be reviewed and updated in 2014, and the results may require the plan itself to be reviewed. This review will also need to update and review the original objective assessment of housing requirements undertaken for the WMRSS Phase 2 Review insofar as it relates to the relevant housing market area. The firm commitment and need to undertake this review should be confirmed in the Local Plan.

⁹ OTH8 – Strategic Policy Framework for the West Midlands (Appendix) [March 2012]

¹⁰ Housing Background Paper (PSC5: Section 4)

¹¹ Household Projections (2008 to 2033) in England [DCLG; Nov 2010]

¹² Housing Background Paper (PSC5; ¶ 4.12-4.25)

¹³ Duty to Co-operate Background Paper (PSC4; ¶ 5.31)

¹⁴ Housing Background Paper (PSC5; ¶ 6.8)

17. The Council suggests including some additional text in the plan, indicating the possible need to review the plan with regard to future housing provision and growth related to Birmingham City and the possible review of Green Belt. Current information suggests that this work is to be undertaken by the GBSLEP, with a strategy in place by 2014, indicating a relatively short timescale. However, the additional text makes no reference to the likely timescale, to any other neighbouring authorities within the relevant housing market area, or to the commitment to review the current SHMA. Although it may not be essential for these commitments to be confirmed in a specific policy, the accompanying text should clearly set out the work which will be undertaken and the specific circumstances when the plan will need to be reviewed. Some suggest that, until this work is undertaken, the proposed housing figure should only be an interim figure. But until these reviews are completed, the implications for Solihull and the overall level of housing provision are unknown, so the proposed level of provision should remain until it is found necessary to amend it.
18. In terms of the overall housing requirement, the Council has taken a consistent and pragmatic approach, having produced a positively prepared and effective plan, soundly based on, and consistent with, the latest independent objective assessment of cross-boundary housing requirements undertaken for the WMRSS Phase 2 Review. However, this assessment is now becoming dated, and in order to ensure that the housing provision figure is robust, enduring and up-to-date, there should be a firm commitment in the plan to review and update the objective assessment of housing requirements. This should take account of **not only Solihull's future housing needs, but** also the needs of the wider housing market, including the needs of Birmingham City, if this becomes necessary as a result of the sub-regional work already envisaged and planned.
19. Turning to the supply side of the housing provision, in addition to dwellings already built or permitted, the proposed housing allocations (3,960) include sites within the main built-up areas (including Solihull town centre), sites within the Green Belt (including those within the North Solihull Regeneration Area and at rural settlements), those on Safeguarded Land previously removed from the Green Belt, and other sites (such as Blythe Valley Business Park). **The Inspector's final report will cover each of these elements of supply, including the contribution from the North Solihull Regeneration Area and Solihull Town Centre and the relevant site-specific issues raised in many of the proposed housing allocations, including phasing, capacity and Green Belt factors. It will also consider the "omission" sites and the reasons for returning two areas of Safeguarded Land to the Green Belt.**
20. As for the other elements of housing supply, the plan includes a significant allowance (2,400 dwellings or 150/year) for windfall sites throughout the plan period (rather than in the 5-year supply, as suggested in NPPF; ¶ 48). The Council explains that windfall sites have consistently come forward in Solihull in the past, but the Inspector wishes to be assured that the allowance takes account of national and local policies which seek to resist inappropriate development in residential gardens (NPPF; ¶ 54), and is not unduly over-optimistic. Furthermore, in terms of phasing and 5-year land supply, the plan fails to explain explicitly how an additional buffer of 5% of housing sites is being provided in the first 5 years of the plan period, as required by the NPPF (¶ 47), in the context of boosting the supply of housing in the local area. The plan should specifically address this point, including the preparation of a housing trajectory.
21. Consequently, some further amendments and clarification to the plan to address these matters are needed to ensure that the housing strategy is effective, justified and sound, and to fully reflect the key elements of national guidance in the NPPF (¶ 14, 17, 47-55, 159 & 178-181).
22. The Inspector's final report will also cover other aspects of the Local Plan, including the Vision and Spatial Strategy, economic strategy, other housing issues (including affordable housing and gypsies and travellers), retailing and town centre policy, accessibility, environment (including climate change), quality of place, local communities and delivery and monitoring.

c. Main Modifications

23. The Council has put forward a Schedule of Proposed Changes to the Local Plan, **including both "Main Modifications" and "Additional Modifications"**¹⁵. These cover amendments made between the publication and submission stages; between submission and the hearings stage; and those suggested during the course of the hearings. In general terms, these amendments seem to cover most of the main changes needed to the plan to ensure that it is sound and is capable of adoption. However, further amendments will **be needed to address the Inspector's concerns** outlined earlier in this report.
24. Moreover, **some of the "Additional Modifications"** seem to go beyond the type of minor changes, factual updates and clarifications which would normally be covered under this heading. Although some of these suggested modifications may not significantly affect the underlying strategy or its strategic policies, they do introduce some additional clarification which may affect the operation and implementation of some policies or allocated sites, make changes suggested by prescribed bodies to ensure the soundness of some policies (such as those requested by the Environment Agency and Natural England), or provide more detailed figures and background to support specific policies (such as the natural resources/waste policy). In order to avoid any risk of further challenges, the Council should consider reclassifying Modifications Nos. 18-23, 28-29, 32, 34-36, 38 & 41-45 as **"Main Modifications"**.

d. Future actions and progress

25. Consequently, the Inspector requests the Council to consider these interim conclusions, responding as necessary, and putting forward the necessary amendments to the policies and accompanying text in a comprehensive Schedule of Proposed Changes, identifying those changes which are necessary to ensure the soundness of the plan ("**Main Modifications**"). Careful checking and proof-reading of the Schedule of Proposed Changes, including any implications of the changes for other policies and text in the plan, will also be needed. Any amendments to the plan required as a result of the forthcoming revocation of the West Midlands Regional Strategy should also be included in this schedule. These Proposed Changes can then be published and be subject to a 6-week formal period of public consultation. If any further Sustainability Appraisal is needed, it should be undertaken before public consultation and published at the same time.
26. The Inspector confirms that these are his interim conclusions, without prejudice, on specific aspects of the Local Plan relating to compliance with the legal requirements, including the Duty to Co-operate, and specific aspects of soundness relating to the housing strategy of the Local Plan. However, he cannot rule out the need for further changes to the plan when he reaches his final conclusions and prepares his report to the Council, particularly since he will need to consider any representations and responses on the Schedule of Proposed Changes before finalising his report.
27. **This note sets out the Inspector's interim conclusions on the** legal requirements and specific aspects of soundness of the plan, but does not cover all the matters and issues identified for examination. The full reasoning for his conclusions will be included in his final report to the Council. Apart from requesting the Council to consider the amendments needed to the plan, this note is made available to other participants for information only. Participants will be able to make any further representations on the Schedule of Proposed Changes, when published.

Stephen J Pratt - Development Plan Inspector
05.04.13

¹⁵ DHC26