

BROXTOWE PART 2 LOCAL PLAN EXAMINATION – BROXTOWE BOROUGH COUNCIL'S RESPONSE TO INSPECTOR'S INITIAL QUESTIONS

19th September 2018

- 1.1 The following document details the Council's response to the Inspector's initial questions, the Council can confirm that the Inspector's original letter (dated the 3rd September) (INSP/01) along with this response (sent to the Inspector on the 14th September) (BBC/01) will be added to the Examination Library.
- 1.2 The following response has taken the Inspector's Initial Questions in turn, the questions (where necessary) have been duplicated (shown in italics) so that they can be read in context with the response and the original numbering system used by the Inspector has been duplicated for consistency.

Initial Questions

Proposed changes

Inspector's Question:

- 3 Please confirm whether these changes have been consulted upon. If not, having regard to paragraphs 1.2 and 3.3 of the PINS Procedural Practice in the Examination of Local Plans, is the Council asking that these be considered as Main Modifications to the Plan?
- 4 *Assuming this is the case, it would be helpful if the Council could provide a separate schedule of the proposed changes indicating which ones it considers to form Main Modifications (MM) and which form Additional Modifications (AM). Any further proposed changes should be similarly categorised. Definitions of MMs and AMs are provided in sections 20 and 23 of the Planning and Compulsory Purchase Act 2004 as amended. The Schedule should also include a column explaining the reason for the change.*

Broxtowe Borough Council's Response (to points 3 & 4):

- 4.1 The Council can confirm that the changes as set out in Appendix 2 of the Consultation Statement (CD/20) have not been the subject of formal public consultation and would like these to be considered as Main Modifications to the Plan. At the Inspector's request the Council has produced a separate schedule of proposed changes (BBC/02) which is available on the Examination Library.

Duty to Cooperate

Inspector's Question:

- 5 The Duty to Cooperate Statement in Section 4 outlines the cooperation with Greater Nottingham Councils and Prescribed Bodies, in particular the Greater Nottingham Joint Planning Advisory Board. In order to fully assess whether the Duty to Cooperate has been met, please provide further details of any

other cross boundary working arrangements or initiatives. Are there any standing arrangements/memorandum of Understanding etc in place? What has been the nature and timing of cooperation and on which particular issues or sites? How has this influenced the plan?

Broxtowe Borough Council's Response (to point 5):

- 5.1 The only District Local Planning Authority (LPA) sharing a boundary with Broxtowe who are not a member of Joint Planning Advisory Board (JPAB) is Amber Valley who are in the Derby Housing Market Area (HMA) and are preparing their own Local Plan in full cooperation with other Derby HMA Councils. We understand that the Amber Valley Local Plan examination is at an advanced stage and there has been no request from Amber Valley or other Derby HMA colleagues to Broxtowe or other Greater Nottingham LPAs to accommodate need from their HMA or vice versa.
- 5.2 Meetings were held between officers at Broxtowe Borough Council (BBC) and Amber Valley District Council and no requests were made from either party to accommodate needs from one HMA to the other at an early stage of Part 2 Local Plan preparation. Following the adoption of the Greater Nottingham Aligned Core Strategies a further Duty to Cooperate meeting was held between all LPA representatives of the Derby and Greater Nottingham HMAs to discuss various strategic issues in October 2016. Again, no requests were made from either party to accommodate need.
- 5.3 Regarding cross boundary issues including housing need and various other strategic matters, Derbyshire County Council are a full member of JPAB and this is the forum for them to raise any issues on behalf of their District Council colleagues and they have not done so.
- 5.4 Had Amber Valley had any issues they were invited to all workshops detailed in the Consultation Statement (CD/20) and were able to raise concerns as part of this process. No concerns were raised.
- 5.5 The Greater Nottingham HMA Councils are part of a Statement of Common Ground pilot which again includes Derbyshire County Council and this is expected to be finalised within the next few weeks when it will be added to the Examination Library.
- 5.6 Broxtowe Borough Council make an annual financial contribution to fund the salaries of officers who are based at Nottingham City Council but act on behalf of all Greater Nottingham Councils in particular work including with colleagues in the Derby HMA. Further details are provided in document number BBC/03.
- 5.7 In addition BBC are included in various cross-boundary strategic groups in relation to HS2 issues.

Habitats Regulations Assessment (HRA)

Inspector's Question:

- 6 I note that the Council intends to undertake further work to ensure compliance with the Conservation of Habitats and Species Regulations 2017 and that this

work should be available in September 2018. Please clarify the scope of this exercise and confirm when it will be available.

- 7 I bring the Council's attention to a recent judgement – Judgment of the Court (Seventh Chamber) of 12 April 2018 *People Over Wind and Peter Sweetman v Coillte Teoranta* which rules that Article 6(3) of the Habitats Directive must be interpreted as meaning mitigation measures (referred to in the judgment as meaning mitigation measures which are intended to avoid or reduce effects) should be assessed within the framework of an appropriate assessment and that it is not permissible to take account of measures intended to avoid or reduce harmful effects of the plan or project on a European site at the screening stage. Can the Council confirm the extent to which they consider the Habitats Regulation report, following completion of the current review, will be legally compliant in light of this judgement?

Broxtowe Borough Council's Response (to points 6 & 7):

- 7.1 The Council is aware of the recent judgement that has been highlighted by the Inspector. The further work being undertaken by the Council is a refresh of the Habitats Regulation Assessment (HRA) work undertaken for the ACS in accordance with the requirement set out in this judgement.
- 7.2 The consultants who have been commissioned to undertake this update are currently busy on other commissions however it is expected that Mid October is a realistic timetable for this work to be concluded and the Council will liaise further with the Inspector once a detailed timetable is available.

Gypsies and Travellers

Inspector's Question:

- 8 The South Nottinghamshire Gypsy and Traveller Accommodation Assessment 2014-2029 identifies a need for 2 pitches for Broxtowe. Policy 16 states that a suitable site for 2 pitches will be identified in the existing built up area and that this provision will be made by 2019. Why has it not been possible to allocate a site in the LPP2? Bearing in mind the target date of 2019, what progress has been made to date with identifying a suitable site? In the circumstances of the Council not being able to meet its own needs, discussion should take place with adjoining authorities for them to meet the outstanding need. Have any taken place?

Broxtowe Borough Council's Response (to point 8):

- 8.1 It has not been considered appropriate to allocate a site in the Part 2 Local Plan as the Council is proposing essentially the same policy as that which was recently endorsed by the inspector for Gedling's Local Planning Document (Part 2 Local Plan) (RD/09). This agreed approach commits to provision being made by next year. In endorsing this approach Gedling's inspector (in paragraph 196 of her report) commented that "the approach proposed by the Council would be a pragmatic solution to meeting the identified needs in the short term". We consider that the same applies in the case of Broxtowe.

- 8.2 Work on considering the site options will commence shortly, which will give ample time for a choice of site to be made by next year.
- 8.3 We do not anticipate adjoining authorities being asked to meet Broxtowe's needs. In the unlikely event that this changes BBC will liaise with colleagues in the HMA Group.
- 8.4 The Plan is being examined on the basis of the 2012 NPPF. However the revised definition of 'travellers' that is incorporated in the 2018 NPPF no longer includes travellers who now live in 'bricks and mortar' accommodation, so Broxtowe's needs may fall slightly in the future. Work has commenced, in liaison with Nottingham City, to review future needs.

Town Centre and District Centre Uses

Inspector's Question:

- 9 In paragraph 10.2 reference is made to the Greater Nottingham Retail Assessment. The proposed boundary changes go further than amendments recommended in this document following the guidance of the Council's Economic Development Team. What evidence does the Council rely upon to support these changes?

Broxtowe Borough Council's Response (to point 9):

- 9.1 The 'starting point' for revising the town and district centre boundaries of Beeston, Stapleford, Eastwood and Kimberley was the recommendations of the Greater Nottingham Retail Assessment (the 'Broxtowe, Gedling, Nottingham City, & Rushcliffe Retail Study 2015' (RE/01), which was produced by Carter Jonas and published in 2015). However, the boundaries to the town and district centres have been revised based upon evidence from this and also from a number of other sources including:
- Professional judgements and advice from Officers from the Economic Development and Town Centres Teams, including the Business Growth Manager
 - Professional judgements of Planning Policy and Development Management Officers
- 9.2 Several factors, including changes in circumstances since the publication of the 2015 Study have influenced the decision to revise the boundaries more radically than originally proposed by the 2015 Retail Study. These include:
- Proposed changes to town centre policies within the Part 2 Local Plan, including significant emphasis upon the use of upper floors of buildings within town centres and the designation of a 'Centre of Neighbourhood Importance' along Chilwell Road / High Road, to the south west of Beeston Town Centre.
 - The increased diversification of uses within the periphery of the Borough's town and district centres, such as changes of use from retail to residential, in the period since the publication of the 2015 Study. Examples include:

- Closure of Beeston Police Station and the conversion of this building and development of associated land for residential use.
- Closure of West End Medical Practice to the south west of Beeston Town Centre.
- Redevelopment of the former Eastwood Infant & Junior School at the western end of Devonshire Drive in Eastwood for housing and accommodation for the elderly.
- Revising boundaries to exclude areas of residential development, within which some town centre uses may not be suitable or appropriate. Examples of such areas include: Wilkinson Avenue and Commercial Avenue, both in Beeston; Albert Street in Stapleford; and part of James Street in Kimberley.
- Planning permission for the major 'Beeston Square' site in Beeston town centre. A hybrid planning application, comprising a full application to construct a cinema and commercial units, along with ancillary uses and public realm improvements, and an outline application for mixed use development to include residential apartments, car parking, commercial units and assembly and leisure units, was granted planning permission on 12 September 2018.

9.3 It should also be noted that not all of the changes have involved removing areas from town or district centre boundaries. As an example, the town centre boundary for Beeston has actually been slightly extended to the north east, to cover a parade of shops towards the end of the High Road.

9.4 It should also be recognised that the town and district centre boundaries have not been reviewed since 2002-2003, and the previous boundaries were not designated based upon detailed evidence. The Council's Economic Development Team now includes dedicated Town Centre Officers who are able to regularly monitor occupancy rates and other trends, based in part upon their regular liaison with town centre stakeholders and through the use of GIS-based spatial data in relation to the Borough's town and district centres. As a result, the Council now has considerably greater expertise in this area, enabling sound recommendations to be made in relation to the most appropriate future boundaries of the town and district centres, based upon improved intelligence.

Climate Change

Inspector's Question:

10 The Aligned Core Strategy in Policy 1 refers to Part 2 Local Plans providing further guidance on how development should contribute to reducing carbon dioxide emissions where appropriate. How does LPP2 address this?

Broxtowe Borough Council's Response (to point 10):

10.1 The Government's Carbon Plan (December 2011) (EN/02) identifies that transport is a major source of greenhouse gas emissions (including CO₂) in the UK, and has a critical role in meeting the legal obligations set out in the Climate Change Act (2008).

A main objective to reduce CO2 emissions in the Carbon Plan includes support people to make lower carbon travel choices, such as walking, cycling or public transport.

- 10.2 A number of policies in the Part 2 Local Plan seek to address this issue either directly or indirectly, these include, the site selection process, an emphasis throughout the plan on reducing the need to travel by private vehicle and specifics within Policy 17 with regards to design measures which would reduce Carbon Dioxide emissions and including an emphasis on the role of Green Infrastructure and natural environment in mitigating and adapting to climate change, these are detailed further below.
- 10.3 The process of site selection (in line with Policy 2: the Spatial Strategy of the Aligned Core Strategy) directs development towards the most sustainable locations within the borough (i.e. existing urban areas followed by adjacent to existing urban areas, where necessary) through a strategy of urban concentration and regeneration. This was to reduce the need to rely on private vehicle use through easy access to facilities, employment opportunities and public transport. The number of houses expected to be delivered within the Main Built up Area of Nottingham in the south of the Borough has increased with 1000 dwellings (within the plan period) to be delivered within close proximity to the Transport hub (at Toton) which currently has a Nottingham Express Transit Park and Ride and is the location for the future HS2 East Midlands Hub Station.
- 10.4 In addition the site specific housing allocations policies (3-7 & 11), where appropriate, seek to reduce the need to travel and encourage a modal shift with the specific requirement to include enhancements to walking and cycling provision in/or surrounding the site and the requirement for extensive Green Infrastructure enhancements in the Key Development Requirements.
- 10.5 Policy 20: Air Quality (1) reinforces this through the requirement for all development proposals to provide effective alternatives modes of transport to private car use. Part (3) of this policy also seeks to reduce CO2 emission through the requirement to provide electronic charging points in housing developments of 10 or more dwellings and commercial developments of 1,000sqm or more in order to future-proof developments and provide the opportunity to reduce ownership of more polluting vehicles by assisting the ownership of electronic vehicles (which produce less CO2).
- 10.6 Policy 28: Green Infrastructure Assets 1(e) also aims to reinforce a modal shift by ensuring that all development proposals that are likely to increase the use of any Recreational Routes should take reasonable opportunities to enhance them (thus encouraging more future use).
- 10.7 The reduction in the Town & District Centre boundaries in combination with Policy 13: Proposals for main town centre uses in edge-of-centre and out-of-centre locations and Policy 14: Centre of Neighbourhood Importance (Chilwell Road / High Road) all aim to focus development in existing urban areas that are well served by public transport.

- 10.8 Policy 17: Place Making, Design and Amenity (1 (b), (c) & (n)) all aim to direct new development towards the most sustainable and accessible locations and encourage walking and cycling.
- 10.9 In addition 17 (2) and (3) requires new developments of 10 or more dwellings (for criteria 3 the dwellings would need to be in the Green Belt or on Green Belt release sites allocated in the plan) to assess (and for part 3 achieve 9 or more 'greens') against the criteria for Building for Life 12 whereby good design includes proximity to services and facilities and public transport.

Viability

Inspector's Question:

- 11 The Infrastructure Delivery Plan refers to further viability work being undertaken to support the Plan. Please advise when it is envisaged that this will be completed.

Broxtowe Borough Council's Response (to point 11):

- 11.1 It is expected that this work will be completed in Mid-October.