

## **Post Hearing Advice Note**

### **Broxtowe Local Plan Part 2 (LPP2)**

#### **Introduction**

1. The purpose of this note is to provide advice on some key issues and my views on the further Main Modifications (MMs) that are likely to be required to make the Broxtowe Local Plan Part 2 (LPP2) sound following the hearing sessions. The MMs are in addition to the potential MMs prepared by the Council in advance of the hearing sessions following consultation on the publication version of the plan and those put forward by the Council following the hearing sessions.
2. I would also advise that I have given full consideration to all the representations made with regard to the LPP2 including the oral contributions made at the hearings. My final conclusions regarding soundness and procedural compliance will be set out in the report to be produced following consultation on the proposed MMs. Nevertheless, having regard to the criteria for soundness and to assist at this stage, I shall provide brief explanations for my advice so far.
3. My findings may alter in light of further evidence that emerges including the consultation process. My views are therefore given here without prejudice to the conclusion in my final report. I do not comment on every issue in the advice. My final report will cover other main issues that arose during the examination.

#### **Further potential main modifications**

##### **Legal Compliance**

4. Once adopted, the LPP2, along with the Aligned Core Strategy, will replace all the saved policies in the 2004 Broxtowe Local Plan. The Regulations require that, where a local plan is intended to supersede another policy in an adopted development plan, this must be stated and the superseded policies should be identified. A MM should be made to provide a schedule of superseded policies to ensure that the LPP2 is legally compliant.

##### **Employment**

5. The submitted evidence demonstrates that the Core Strategy requirement of 34,000 square metres of office/research development floorspace and a minimum of 15 hectares of land for new and relocated industrial and warehouse uses will be met. However, it is unclear from the wording of the LPP2 how this is to be achieved. In the interest of clarity and effectiveness, I consider that a brief explanation, including reference to the employment commitments shown on the Policies Map and new

allocations, should be included in the plan. The Council should prepare some additional explanatory text to Policy 2 Site Allocations, to be set out as a potential main modification. The addition of the Aero Fabrication site to the Policies Map following the recent grant of planning permission should be included within a separate schedule of proposed changes to the Policies Map which should be published as part of the future MM consultation exercise.

## **5 Year Housing Land Supply**

6. As discussed at the hearings, I have concern regarding the Council's approach of adding the buffer only to the housing requirement and not to the past shortfall of supply. I note that there is no consistent approach amongst the different authorities in the HMA. The National Planning Policy Framework (the Framework) and national Planning Practice Guidance (PPG) do not specifically suggest that the buffer should also apply to the shortfall. However, this shortfall already forms part of the overall housing requirement and under the Sedgefield approach it also forms part of the 5-year housing requirement. I therefore consider that the buffer should be added to the requirement and the shortfall. In numerical terms this adds 171 dwellings to the requirement 2018-2023 ie. 3607 dwellings. With a total supply figure of 3582, this leads, albeit marginally, to the inability to demonstrate a 5-year housing land supply on adoption of the local plan.
7. Having regard to the evidence before me, including the Council's very cautious approach to windfalls as set out in the SHLAA 2017/18, together with the revised definition of windfalls in the 2018 Framework, it indicates to me that there is justification for the windfall allowance to be increased to 75 dwellings per year. This would add 175 dwellings, maintaining a supply of around 5.2-years on the adoption of the plan. Consequential changes to the Housing Trajectory should form a MM.

## **Policy 2 Site Allocations**

8. The supply figures in Table 3: Housing Figures should be updated following the various revisions to site capacities since the hearings. This should be set out as a MM.

## **Policy 3.1 Chetwynd Barracks**

9. It was agreed at the hearings that the Council give further consideration the requirements of this policy with the site promoters and other interested parties. The suggested amendments to the Policy put forward by the Council are necessary in the interests of effectiveness and should be set out as a MM. The revisions to the Justification Text should also be set out as a MM as they are necessary in the interests of clarity and effectiveness.

### **Policy 3.2 Toton Strategic Location for Growth**

10. In light of representations and discussions at the hearings I also asked the Council to consider the requirements of this policy with the landowners and other interested parties. The proposed amendments as well as the revisions and additions to the Justification Text put forward by the Council should be set out as MMs.
11. The amended Policy states that within the plan period a minimum of 18,000 sq m of mixed employment space will be provided. In the section dealing with the Key Development Requirements beyond the plan period which are subject to the Strategic Masterplan, it refers in xxii) to the Masterplan setting out a specific delivery mechanism for the employment floorspace to be delivered by 2028. This would require the Masterplan to be prepared and approved well before the end of the plan period. As drafted the policy is unclear and ineffective. I suggest the Council prepare a MM to the Policy wording to make it clear when the Masterplan would need to be prepared.

### **Policy 7.2 Land south of Eastwood Road**

12. This site of just over a hectare is allocated for 40 dwellings. One of the Key Development Requirements requires part of the site to the rear of existing residential properties to be retained as green infrastructure. This reduces the developable site area. The provision of 40 dwellings on the site would result in a high-density development which I consider would be out of character with the area especially as the site is on the urban edge. It is also uncertain whether the existing dwelling on the site would be incorporated into the development potentially further reducing site capacity. Applying a default density of 30 dwellings per hectare as per the SHLAA, I suggest the site capacity be reduced to 25 dwellings. This should be set out as a MM to the policy.

### **Policy 7.3 Eastwood Road Builders Yard**

13. This brownfield site, allocated for 22 dwellings, formerly allocated for housing in the 2004 Local Plan, needs remediation and is in multiple ownership. On the basis of the evidence, I am not satisfied that the site is deliverable within the plan period. I therefore suggest a MM should be made to delete it from the plan.

### **Policy 8 Development in the Green Belt**

14. Part 3 of Policy 8 provides guidance on the change of use of land in the Green Belt to outdoor sport and recreation, reflecting the 2019 Framework. The Policy states that health and wellbeing benefits would constitute 'very special circumstances' which clearly outweigh the 'by definition' harm to the Green Belt. Firstly, whilst not actually stating so, this infers that a change of use of land to outdoor sport or recreation forms inappropriate development. This is not the case, subject to an assessment of the impact on openness and the purposes of the Green

Belt<sup>1</sup>. Secondly it misinterprets paragraph 144 of the 2019 Framework in terms of when 'very special circumstances' would exist. Part 3 of the policy should be amended to ensure consistency with the 2019 Framework. This should be set out as a MM.

### **Policy 13 Proposals for Main Town Centre Uses in Edge of Centre Locations**

15. Part 2 of Policy 13 sets out a locally set threshold for the submission of impact assessments for edge of centre and out of centre retail, leisure, office or food and drink uses. The 2015 Retail Study does not provide the full range of evidence required by national Planning Practice Guidance<sup>2</sup>. The 500 sq m threshold stated in the policy is therefore unjustified. I suggest it be deleted and a MM made replacing this figure with the default Framework threshold of 2500 sq m.

### **Policy 15 Housing Size Mix and Choice**

16. I have noted the Council's proposed post hearing revision to Part 8 of the Policy. This removes the 5% requirement for custom and self-build homes on schemes of 20 dwellings or more; the requirement to be based instead on meeting an existing demand indicated by the Register. I am not satisfied however, that based on the available evidence including the lack of permissions for custom build/self-build homes in the Borough, that there is sufficient demand for such provision. The requirement is therefore unjustified. I suggest that Part 8 of the policy be deleted. This would form a MM.

### **Policy 16 Gypsies and Travellers**

17. At my request at the hearing, the Council has provided more information about the process and associated timeframe for the identification of sites to meet the identified need and ensure the necessary provision by the end of 2019. To make the policy effective, an addition should be made to the justification text to outline the Council's intended approach including reference to the preparation of a Supplementary Planning Document. This should be set out as a MM.

### **Policy 27 Local Green Space**

18. An action point following the hearings was for the Council to further consider the proposed Local Green Space designations and their justification. The Council's proposed change to Policy 27, removing the 5 Prominent Areas for Protection from this designation and their addition to the list of Green Infrastructure Assets in Policy 28, should be set out as MMs. The consequential changes to the Policies Map should be included in a separate schedule to be the subject of consultation at the same time as the MMs.

---

<sup>1</sup> NPPF paragraph 146

<sup>2</sup> NPPG Para 016 'Ensuring the Vitality of Town Centres'.

19. Policy 27 should be consistent with Green Belt policy (Paragraph 78 of the Framework). As currently drafted, the policy does not fully set out the provisions of Green Belt policy that would apply to such designation. It is therefore inconsistent with the Framework and lacks effectiveness. I suggest that the policy be redrafted to better reflect national Green Belt policy. This should form a MM.

### **Next steps**

18. The Council should now prepare the further modifications I have outlined. These should be incorporated into a consolidated schedule of all the potential MMs. The Council should also consider any consequential changes to the LPP2 that might arise.

19. The final version of the MM schedule should be provided to me for comment before being made available for public consultation. For clarity and to avoid excessive MMs, I suggest that changes to a single policy together with any changes to the explanatory text be considered as one MM.

20. The Council should ensure that they have met the requirements for sustainability appraisal by producing an addendum to the Sustainability Appraisal of the submitted plan in relation to the potential MMs, as appropriate. I would like to see a draft of the addendum and may have comments on it. The addendum should be published as part of the future MM consultation. The Council should also prepare any necessary update to the Habitats Regulation Assessment and again this should be published as part of the MM consultation.

21. The Council has also prepared a list of additional modifications (AMs). Apart from those I consider should be defined as MMs, the AMs are a matter solely for the Council. If the Council intends to publicise or consult on these it should be clear that such changes are not a matter for me to consider.

22. In line with the Examining Local Plans Procedural Practice document, the MM consultation should be undertaken for a minimum of 6 weeks. It should be made clear that the consultation is only about the proposed main modifications and the policies map changes. The MMs are put forward without prejudice to my final report. It is my expectation that issues raised in the consultation of the draft MMs will be considered through written representations. Further hearing sessions will only be scheduled exceptionally.

23. I would request the Council provide a response to this Advice Note by 5 May 2019. The response should include a timetable for the work

required and the potential dates for the MM consultation and the collation of responses.

24. This Note should be published on the Council's website as soon as possible together with the Council's subsequent response.

25. No representations on this Note or the Council's response are invited at this stage. Representations will be invited on MMs once these are published.

26. Should the Council have any queries please contact me via the Programme Officer.

Helen Hockenhull

Inspector

15 March 2019