WINCHESTER CITY COUNCIL LOCAL PLAN EXAMINATION - STAGE 1 HEARINGS

MATTER 1: COMPLIANCE WITH STATUTORY
PROCEDURES AND LEGAL MATTERS

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REPORT CONTROL

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1.0 INTRODUCTION

- On behalf of Barwood Land, Grass Roots Planning have been instructed to make representations to the emerging Local Plan (LP) for Winchester City Council (WCC) in which we have also sought to promote a site for housing allocation, referred to as Land north of Cranbourne Drive, Otterbourne. Our involvement in this site stretches back to autumn 2022 when we were commissioned to undertake consultation with the Parish Council (PC) and local community on potential opportunities for this site and to make representations to the Regulation 18 LP.
- 1.2 We have set out our representations within the earlier consultation stages which represent our position on the plan and its constituent parts, however this statement seeks to elaborate on the issues and concerns previously raised and respond to the Inspector's Matters, Issues and Questions (MIQs) set out in the Inspector Note 2 V2 (ED13). This statement relates to Matter 1 which refers to compliance with statutory procedures and legal matters.

Issue: Whether all Statutory and Regulatory requirements have been met?

Duty to Cooperate (DtC)

- 1. Is there clear evidence that the Council has engaged constructively, actively and on an ongoing basis with neighbouring authorities and prescribed bodies in accordance with section 33A of the 2004 Act, in respect of strategic matters with cross-boundary impacts considered through the preparation of the Plan?
- 2. In particular in relation to the unmet housing need in Partnership of South Hampshire area (PfSH) and individual adjoining Councils, especially Portsmouth and Havant and Basingstoke in relation to the establishment of a new community at the Popham Airfield and Micheldever Station?
- 1.3 Under the DtC as highlighted in para 24 of the National Planning Policy Framework (the Framework) effective strategic planning across local planning authority's (LPA) is a key part of delivering sustainable growth and LPAs are under a DtC on strategic matters that cross administrative boundaries.
- 1.4 For WCC this requires a DtC with the neighbouring LPA's: Test Valley Borough Council (TVBC), East Hampshire District Council (EHDC), Basingstoke and Deane Borough Council (BDBC) Eastleigh Borough Council (EBC), Havant Borough Council (HBC) Portsmouth City Council (PCC), Fareham Borough Council (FBC) and also South Downs National Park

Authority (SDNPA) partly falling within the Winchester District; alongside statutory agencies, public bodies and key strategic infrastructure providers.

- 1.5 To undertake effective strategic planning WCC should have a clear understanding of the housing land supply (HLS) issues facing the neighbouring authorities and whether they have unmet needs. WCC's own spatial strategy should then be informed by a robust understanding of whether those unmet needs could be met within the authority's boundary as part of the LP.
- 1.6 Whilst signed DtC Statements of Common Ground (SoCG) have been submitted by each of the adjoining LPA's, it is still unclear whether constructive engagement has taken place on an "actively and on an ongoing basis". This is clearly highlighted in EBC's SoCG which states "Due to the difference in plan-making timeframes between the Councils, it is not possible to agree a position regarding any potential unmet need". Local Development Scheme (LDS) timeframes will never be consistent in strategic planning, and simply deferring consideration of how unmet needs will be met because of this, is not a robust approach to progress cross boundary planning. Para 35 of the Framework clearly sets out the purpose of the DtC and the responsibility of the authorities involved which is to ensure that issues are dealt with and not deferred.
- 1.7 As highlighted in representations to the Reg. 18 and 19 LP, even prior to the most recent Standard Method (SM) update (to be discussed) the Partnership of South Hampshire (PfSH) had acknowledged a significant unmet housing need, and it is our opinion that WCC have not appropriately considered how much of this unmet need could be successfully accommodated through approaching alternative growth scenarios.
- 1.8 We acknowledge the housing requirement set out in the submitted LP incorporates a 1,900 dwellings allowance to meet the unmet needs of neighbouring authorities, however we cannot see how this goes even close to helping these LPA's meet their unmet needs. Indeed, the figure looks to have simply been rebadged from the previous buffer (set out in the Reg. 18 LP) which was in place (but nowhere near sufficient) to protect against non-delivery. 1,900 dwellings is considered disproportionate to the scale of need and it is not clear, or evidenced, how this figure was calculated. What is clear is that this figure has not been arrived at through the proper and robust process of testing alternative spatial options to understand what level of need could be accommodated.
- 1.9 For HBC, its SoCG states that against the SM the Council has an unmet need of 4,309 dwellings, also stating that "given the extent of very constrained supply of land and proposals to update the standard method which would substantially increase this need, there will be insufficient capacity to meet objectively assessed need within the Plan area by a substantial margin". For PCC, its SoCG also confirms an unmet need of 4,377 dwellings (prior to

consideration of the SM update). For these two authorities alone, there is an unmet housing need of 8,686 dwellings (prior to considering the SM update) and WCC providing an arbitrary contribution of 1,900 dwellings towards meeting this need is not considered sufficient or robust cross boundary planning.

- 1.10 The LP does not look to have been prepared having tested how much of the unmet need (in excess of its own housing needs) it could sustainably accommodate. WCC should have considered testing a higher growth strategy which they have not done despite its own evidence base including the Strategic Housing & Employment Land Availability Assessment (SHELAA), confirming there to be a variety of potentially suitable sites which could be brought forward. The Council has been unwilling to compromise on its spatial strategy and as such has only incidentally met some of the unmet housing needs and have therefore failed to fulfil the DtC by constructively working with PfSH to fully test housing growth options.
- 1.11 Finally, whilst the Inspector has confirmed that WCC's LP will be examined under the transitional arrangements (and reviewed against the 2023 Framework), it should be acknowledged that WCC were fully aware of the potential implications of the NPPF update, based on the draft consultation which ran between July and September 2024 in which the new government's focus on boosting housing growth was set and the information published clearly highlighted the implications of the SM update. However, there looks to be no robust consideration of the potential implications of this by WCC. The amended figures will see an increased need of 44% across the PfSH authorities neighbouring Winchester increasing from 5,849 dpa to 8,426 dpa (see table 1 below).

LPA	Previous	NPPF	Published	Difference	%
	SM	consultation	SM	- previous	increase
		SM		and	
				published	
Southhampton	1,473	1,295	1,214	-259	17.6% <
Portsmouth	897	1,098	1,021	124	13.8%>
Eastleigh	645	902	922	277	42.9%>
East	575	1,074	1,142	567	98.6%>
Hampshire					
Fareham	498	794	800	302	60.6%>
Havant	508	874	892	384	75.6%>
Test Valley	524	921	934	410	78.2%>
New Forrest	729	1,465	1501	772	105.9%>
Total	5,849	8,423	8,426	2,577	44.1%>

Table 1. Implications of SM update on neighbouring authorities

1.12 Overall, this is likely to increase the unmet needs in surrounding authorities from c. 12,000 to c. 37,000 dwellings. We strongly believe Winchester should play a key role in meeting this unmet need, particularly given other neighbouring areas are so highly constrained in terms of available land.

Sustainability Appraisal

- The Council has carried out an Integrated Impact Assessment (IIA). That comprises a Sustainability Appraisal (SA) incorporating Strategic Environmental ED13 2 Assessment (SEA), Health Impact Assessment (HIA), and Equalities Impact Assessment (EqIA).
- 2. In particular, does the SA adequately assess whether the emerging Plan's objectives are fully compatible with and actively contribute towards each of the sustainability objectives set out in the Sustainability Framework? Are the conclusions robust and justified by the evidence?
- 1.13 Through our representations to the Reg. 18 and 19 LP consultations we have raised notable concerns with the information presented in the Integrated Impact Assessment (IIA). The site assessment work which builds on the SHELAA (as highlighted in our response to Matter 5) contains numerous inaccuracies and questionable assumptions which have fed into the overall assessments regarding the deliverability of sites. These issues have been raised by us and other consultees but never addressed and therefore the allocations progressed are not considered to be based on robust or justified evidence.
- 1.14 The SA looks to have been an afterthought, rather than informing the spatial approach adopted by the Council, and it clearly does not provide an appropriate test of alternatives to address the unmet needs of its highly constrained neighbours. Therefore, we do not believe the SA has adequately considered whether the Plans objectives actively contribute to the sustainability framework.

- 3. The SA tested five spatial strategy options: a development strategy based on the adopted Local Plan, focusing development on Winchester and the larger more sustainable settlements; a strategy based on a new strategic allocation/new settlement; a strategy based on dispersing development around the District largely in proportion to the size of existing settlements; and, a variation of option 1, known as option 1A, which provides for a higher total number of dwellings. It takes account of existing commitments, windfall allowance and has the effect of reducing development in the South Hampshire Urban Area and increasing it in Winchester and the Market Towns and Rural Areas. Given national policy1 that strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas should an option with a higher growth target have been considered?
- 1.15 It is clear from the evidence available in terms of the unmet needs of the neighbouring authorities, alongside the unmet need for WCC based on the updated SM, that a higher growth target should have been considered and in not doing so the Council has not appropriately tested alternative growth scenarios. Clearly WCC is not doing enough to meet housing need, despite being less constrained than most authorities within the PfSH and acknowledging that the supporting SHELAA also clearly shows there are additional sites in sustainable locations which could be considered for allocation in the LP to meet this need.
- 1.16 As set out in table H2 of the LP, the total housing requirement is based on the 2023 SM equating to 13,565 dwellings over the plan period (2020-2040) combined with an "Unmet Needs Allowance (for unmet need in neighbouring authorities)" of 1,900 dwellings, totalling 15,465 dwellings. Despite the additional 500 dwellings added to the buffer, this figure is still a reduction to that previously progressed under Reg. 18 (at 15,628) which was based on the SM at the time being 715 dpa, as opposed to 2023 when this was 676 dpa. Fast forward to the current 2024 SM and it is clear the housing target dramatically underplays the true housing need figure as the requirement now stands at 1,157 dpa.
- 1.17 Within the updated Development Strategy and Site Selection document (July 2024) it is stated in para 3.1 (in line with national policy) that the "starting point for considering the minimum level of housing development is the Government's "Standard Method". The expectation is that this will be followed unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals". WCC updated its figures (between Reg. 18 and 19) to take account of the latest published SM, but has disregarded implications relating to the proposed changes arising in the 2024 SM (highlighted through the Framework update consultation), and the significant additional annual requirement to be met by the district, given the "advanced stage of work that the new Local Plan has reached, and the significant delay and cost if matters are not expedited at this juncture".

- 1.18 Whilst the statement looks to justify why WCC did not propose a bespoke methodology to define its housing requirement, the significant housing need set through the updated SM suggests it would be more than justifiable to progress a higher growth scenario. Which would also (to be discussed) help address issues of affordability and the unmet needs of neighbouring authorities. WCC clearly understand the implications of the updated Framework/SM but are essentially disregarding these in order to fast track the LP to meet the much lower LHN set by the 2023 SM. On this basis alone this is clearly not a LP which has been positively prepared or justified by the evidence available at the point of submission.
 - 5. How has the SA informed the development of the Plan, including housing delivery and any mitigation measures? How has it informed the selection of strategic options, the development of policies and the selection of sites, all of which aim to identify sustainable development outcomes for the District?
 - 6. In overall terms does the Plan meet the legal requirements of Section 19(5) of the 2004 Act and accord with National Planning Policy Framework (NPPF) paragraph 32 and the Planning Practice Guidance (PPG) in this regard?
- 1.19 The SA supporting WCC's LP is considered a reactive, as opposed to proactive approach, through reviewing the chosen spatial strategy rather than informing it from the outset and directing the Council to the most sustainable strategy. The SA is not considered sound as it has not included an appropriate test of alternatives, or considered what level of additional housing growth could be successfully accommodated within the LPA's boundary to meet unmet needs and more positively address DtC requirements.
- 1.20 Looking more specifically to the assessment of sites and the chosen allocations progressed, the assessment tools used to inform the SA (including the SHELAA and the IAA) have been shown to contain numerous mistakes and inaccurate assumptions, which we (alongside other consultees) have highlighted throughout the previous consultation process but these points have never been rectified, and as a result, sites have been progressed to allocation (or discounted) without the appropriate consideration of their deliverability. The fact that these concerns have been carried forward despite having been raised on numerous occasions also raises questions regarding the robustness of the consultation approach undertaken, which is likely symptomatic of the LP being submitted just 33 days after the Regulation 19 consultation ended.
- 1.21 A clear example of this is available when reviewing contrasting sites for the settlement of Otterbourne. Land off Main Road OT03 in the SHELAA, the progressed allocation for Otterbourne (OT01) was recorded "green" under the RAG assessment for landscape, suggesting no landscape concerns are apparent when considering the site being brought

forward for housing. This is despite the fact there has already been two planning applications on this site refused on landscape grounds, and that the site would be highly sensitive given the potential impact on views available from people walking the well-used PRoW crossing through the site. In contrast OT08 (the site under promotion by Barwood) was recorded as "amber" when it is both physically and visually contained and should therefore be "green". Again, regarding potential heritage / archaeology impacts the progressed allocation OT03 was recorded as "green" despite the proximity of a number of listed buildings, and of the presence of a Roman Road directly bisecting the site.

- 1.22 Reviewing the later stage of the site assessment process including the IIA which built upon the findings of the SHELAA, again reviewing the comparisons between sites OT03 and OT08, there are yet more obvious inconsistencies within the assessment process, which largely appear to have brought forward questionable assumptions that have previously been made. For example, reviewing the heritage assessment for site OT03 it simply states that it was rated green for effects on heritage assets in the SHELAA. This is without strong justification, or clear evidence to suitably test alternatives. Regarding landscape impact, OT08 continues to be ranked worse than OT03 despite it's contained nature and noting OT03 has the potential to significantly impact the landscape character and rural setting of the village.
- 1.23 Again, for IIA Objective 1, the assessment incorrectly scores OT03 as 'minor negative' due to it being with 400 metres of a primary school. This is not the case, the distance is clearly over 500 metres and requires crossing the Main Road, adding further potential safety and/or traffic implications and making the walking route to school less attractive. For OT08 this was recorded as a 'minor negative' impact, despite the fact it is both within 400 metres of a primary school and within 501-1000m of a secondary school, which means its location is a significant benefit in terms of sustainability.
- 1.24 A more detailed comparison of these sites is set out in para's 3.15 to 3.26 of Barwood's representations to the Reg 19. Version of the Plan. In solely reviewing these two sites there are notable concerns on the objectivity of the assessment process and the robustness of the supporting evidence and assessment of sites.

Local Development Scheme

Is the Plan compliant with the Council's Local Development Scheme (LDS) in terms of form, scope, timing

1.25 Whilst the Plan looks to have followed due process in terms of the stages of consultation, we do not believe appropriate time was taken to review the representations from the Reg. 18 LP before progressing to the next formal stage; or indeed to review the representations to the Reg. 19 consultation prior to the LP being submitted for examination (a period of just 33 days).

1.26 As we have highlighted in our representations, numerous questions remain unanswered which effect the validity of the chosen site allocation approach and therefore question the soundness of the evidence on which the Plan is based. These appear to have simply been disregarded to rush through the LP to be tested under the 2023 Framework; and the LP is therefore considered unsound and unjustified by the evidence available at the time of submission.

Community Involvement

- 1. Has the Council complied with the requirements of section 19(3) of the 2004 Act with regard to conducting consultation in accordance with the Statement of Community Involvement?
- 1.27 As highlighted within para 1.10 of WCC's Statement of Community Involvement (SCI) regarding the consultation on draft plans and policies, the Council is obliged to consider the representations made. In para 2.17 it is confirmed that "In all cases... Feedback should be provided, and representations should be taken account of in a way that enables persons to see the Council's response."
- 1.28 As we have highlighted to WCC through our representations we do not believe the Council has appropriately met this provision. Indeed, Barwood's representations to Reg. 19 of the LP were only published following the request by the Inspector to update the accessibility of the representations and the requirement to produce a summary of responses (which we would argue should have been submitted alongside the Plan). This clearly shows despite the detailed level of work which went into the representations to highlight concerns with the validity/ robustness of the Plan, there is no clear evidence of how this was taken into account, and without this being shared prior to submission this was also not available for Members and other interested parties to scrutinise. Indeed, the Plan was not even taken back to Cabinet before it was hurriedly submitted 33 days after the Regulation 19 consultation ended. We consider this to be highly unprecedented.
- 1.29 Even now with the responses published, there is no evidence of how this has been reviewed or the questions raised addressed. It is clear in reviewing the other representations, that we are not the only interested party raising serious concerns with the data underpinning the chosen site selections; and whilst a requirement of the SCI, there is no clear evidence of the feedback to confirm these views have been appropriately considered. Simply writing in the summary of responses "this has been considered, and no further amendments are required"

is clearly not a strong enough response, or one which would give any confidence that the concerns raised have been addressed.

1.30 The summary of responses followed sometime after the submission of the Plan for examination and looks to be a hatched attempt to address the issues raised, which are considered too numerous and across the board to be able to robustly address at this late stage. It is considered that the most appropriate course of action would be to withdraw the LP, deal with the issues raised and look to meet the significant unmet need facing the district. The LP is not based on sound evidence and the spatial strategy progressed is therefore compromised. WCC has sought to fast track through to examination without appropriately acknowledging or addressing the representations received and therefore WCC cannot be seen to have complied with Section 19(3) of the 2004 Act.

