

Sent by email on behalf of Warwick District Council, Rugby Borough Council, North Warwickshire Borough Council and Stratford on Avon District Council

**Joint Representation to Nuneaton and Bedworth Borough Plan  
13<sup>th</sup> March 2017**

Dear Kelly,

- 1 Please accept this representation as an officer response on behalf of Coventry City Council, Warwick District Council, Rugby Borough Council, North Warwickshire Borough Council and Stratford on Avon District Council (here on referenced as the signatory authorities). This representation is an objection on Duty to Co-operate and soundness grounds, although it is felt that both of these can be overcome prior to the submission of the Plan.
- 2 This response follows the recommendations of the Coventry, Warwickshire and South West Leicestershire Joint Committee at its meeting of March 8<sup>th</sup> 2017. This in itself follows the on-going consideration of the Borough Plan by the Joint Committee at its previous meeting of January 27<sup>th</sup> 2017. For ease of reference the respective papers for each of the Joint Committee meetings are appended to this representation at Appendix 1 and 2. In addition, each LPA may submit their own responses to the consultation in addition to this joint representation.
- 3 By way of background, it wasn't until late 2016 that NBBC first provided evidence that their emerging Plan would result in a shortfall of housing for the Borough (against the MOU). Following on from this on the 10<sup>th</sup> January 2017, NBBC proposed a series of steps to address emerging issues:
  - a) Sub regional authorities to review NBBC SHLAA in terms of its conformity with Coventry and Warwickshire Joint SHLAA methodology and supported by an appropriate evidence. This was to ensure that the authorities are satisfied that the NBBC's housing land capacity has been fully utilised
  - b) Officers to identify option(s) for way forward to ensure needs of the HMA can be met
  - c) Sub-regional Member meeting to be arranged where options for way forward can be discussed/ agreed with a view to preparing a report for the Joint Committee
- 4 It was only on the 17th January that all the signatory authorities were informed of the level of housing shortfall as a result of the Borough Plan, around the time when the Cabinet papers were uploaded to NBBC website.
- 5 The Coventry, Warwickshire and Hinckley & Bosworth Joint Committee meeting held on the 27th January 2017 (See appendix 1) agreed a shared process to address issues. The report highlighted that the timescales for the next steps were driven by the Borough Plan consultation period and that NBBC had indicated that they would find it extremely difficult to agree to an extension to the consultation timescale. This has left insufficient time to resolve concerns prior to the end of the consultation period.
- 6 Given the timelines the signatory authorities consider that NBBC, who were aware of their capacity issues for a period of time, should have engaged with the HMA authorities earlier particularly with regard to emerging SHLAA evidence. This would have enabled more collaborative discussions about NBBC's SHLAA prior to the Publication of the Borough Plan. The additional time

would have also enabled NBBC to be satisfied that they have met the Duty to Cooperate prior to consultation on the Borough Plan.

- 7 By way of clarification, we confirm that the signatory authorities retain a number of significant concerns in relation to the Borough Plan (of which you will be aware). **It is our view that given sufficient time and commitment, all such concerns can be overcome prior to the submission of the Borough Plan through additional engagement work, a range of early modification proposals and a Statement of Common Ground. Our concerns are outlined as follows:**

### **The Duty to Cooperate**

- 8 The signatory authorities alongside Nuneaton and Bedworth Borough Council (NBBC) comprise the Coventry and Warwickshire Housing Market Area (the HMA). This has been evidenced through the work undertaken on the Joint Strategic Housing Market Assessment (2013) and its supplementary papers thereafter. Indeed, the work undertaken on the Joint SHMA is just 1 example of effective and collaborative evidence produced jointly across the HMA over the past 4 years. Other examples have included a shared SHLAA methodology paper, a Joint Green Belt review and employment land reviews in partnership with the CWLEP. This is in addition to wider partnership working on matters of transport and infrastructure.
- 9 National guidance and legislation places a duty upon Local Planning Authorities to cooperate with each other when developing Local Plans. We recognise that this duty is not a duty to agree, but one to cooperate. Notwithstanding, the approach and outcomes of this cooperation should be effective and justified in order to deliver a sound and legally compliant Plan. Furthermore, the duty cannot be met retrospectively and cannot continue to be discharged in relation to this aspect of the NBBC plan once it has been submitted to the Secretary of State.
- 10 In this context we would highlight that all authorities within the HMA were party to the development of the Coventry and Warwickshire Housing Requirements Memorandum of Understanding (Housing MOU) (September 2015) and that over the spring of 2016 all authorities were party to the development of the Coventry and Warwickshire Employment Land MOU.
- 11 With regards the Housing MOU this was formally agreed by 5 of the 6 authorities and is appended to this letter at Appendix 3. We note that at the time of the MOU, NBBC supported the principle of the approach, however did not sign it, as they required additional time to undertake further work including site assessment work to ensure sufficient capacity for housing across the Borough. Nonetheless the Housing MOU has underpinned the development of Local Plans for the 5 signatory authorities and has been considered and tested at recent public examination for Stratford (adopted July 2016), Warwick and Coventry<sup>1</sup>. It has been well received and identified as a strong example of constructive and effective cooperation.
- 12 The Employment Land MOU was agreed by all 6 authorities in July 2016 (see Appendix 4) and has also been referenced at the examinations of the Coventry and Warwick Local Plans with similar reception.
- 13 By way of clarification, at the time of writing, the Stratford Plan is adopted and the Plans for Warwick and Coventry are published for main modifications – none of which relate to the Duty to Cooperate, the MOU's or related housing/employment delivery. They do however include explicit

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<sup>1</sup> *Indeed, the basis of the outcomes of the joint work on the SHMA was further endorsed by analysis undertaken by independent consultants working on behalf of Stratford-on-Avon District Council*

review mechanisms should the overall needs of the HMA not be planned for in a positive and constructive way.

14 What is clear therefore is the general support for signatory authorities' approach to the MOU's and their Duty to Cooperate responsibilities and, as a result of this, the positive contribution they are making towards planning for the needs of the HMA.

15 We consider specific details relating to the MOU's and matters of housing and employment needs later in this representation.

16 Whilst the signatory authorities are aware of the reasons for NBBC not signing the Housing MOU and for not complying with the requirements in the Employment Land MOU (namely that NBBC consider that they do not have sufficient land capacity to meet the requirements in full), we cannot at this time, accept the reasoning or evidence provided to support NBBC's position.

17 We therefore consider that, although NBBC have engaged constructively over a number of years with regards the MOUs and supporting evidence, there are serious concerns about how this engagement has informed, evidenced and been presented within the preparation of the Borough Plan. Whilst NBBC indicated at the time that there could be capacity issues to prevent them from meeting the MOU requirements, the lack of engagement around the SHLAA evidence base, the timing in which NBBC disclosed the extent of the shortfalls and the resultant approach to address any Duty to Cooperate concerns, has been very disappointing and late in the day. To identify the details of the shortfall in the NBBC area (relative to the MOU requirement) for the first time alongside the publication of the Submission Draft of the Borough Plan means no time or opportunity for constructive and effective feedback across the HMA and removes any genuine opportunity to propose alterations or adjustments to help respond to the issues. This is all the more disappointing as it is our view that these issues can be remedied prior to the Plan being submitted.

18 In this respect we note that NBBC are undertaking further engagement work at officer level with the signatory authorities and that the signatory authorities have provided extensive feedback relating to various issues with the Plan and the SHLAA. As yet though there has been a refusal from NBBC to entertain any suggested amendments or alterations. This again suggests a lack of commitment to the Boroughs responsibilities under the DTC. It is therefore critical that NBBC continue to engage in constructive dialogue at all levels with all the Councils in the HMA prior to the submission of the Borough Plan. This would provide a reasonable prospect of resolving the outstanding issues and would enable this Duty to Cooperate objection to be withdrawn. However, if NBBC submit the plan without allowing sufficient time or resources for effective dialogue, then the objection is likely to be sustained in to the Examination process

### **Housing and Employment MOU's**

19 Further to the information above, we would firstly raise disappointment that NBBC were not able to sign the Housing MOU and that they were not able to comply with the Employment MOU. The issue of employment land is particularly concerning given the Borough Council signed and agreed the MOU less than 6 months before this draft of the Borough Plan was published. We note that reference is made in the Borough Plan to both MOU's however it's surprising that neither feature in the evidence base which underpins the Plan. It is also our view that the Borough Plan fails to clearly justify why the requirements identified for the Borough in both MOU's have not been met. The Plan suggests its tried to meet the figures identified for NBBC but has failed (Para 5.20 and 5.29 are prime examples). It then goes on to say nothing about what this means or how the

Borough intend to respond to this issue. This is a key aspect of the Plans development and should be clearly explained and referenced.

### **Housing Needs and Supply**

- 20 With regards housing needs we would first clarify that the HMA as a whole remains in a positive position regarding the planned quantum of homes for the next 15-20 years. Recent sub-regional monitoring work suggests a level of supply slightly above 90,000 homes (2011-2031) which compares to an identified need for the HMA in the Housing MOU of 88,160. For clarification, this takes account of the total supply identified in the NBBC Plan but excludes post-plan period supply expected in Rugby, Stratford and Warwick and excludes any housing land or housing supply specifically identified to meet the needs of other HMA. It is also accepted that it is based on assumptions that Plans will be adopted as proposed without any further changes to site allocations or capacities.
- 21 Notwithstanding, the signatory authorities believe that an even stronger supply position could be achieved if NBBC were to acknowledge the requirement identified within the Housing MOU and identify sufficient supply to meet said requirements. Indeed, it is our view that such uplift would actually be minimal and could be achieved relatively easily within the context of the Plan as already presented.
- 22 For example, there is clear uncertainty as to what level of housing the Borough Plan is aiming to provide. Para 5.20 highlights a Borough need of 10,040 homes with further provision for Coventry of 2,330 – totalling 12,370. In contrast though, Policy DS4 identifies the level of housing being planned for as 13,374 homes. This is replicated in the supply components under Para 5.21 and in the monitoring target of Para 5.36. Based on our on-going engagement with NBBC we are led to believe that the 1,004 dwelling difference allows for flexibility or contingency within the supply. If indeed this is the case then the monitoring target and policy are incorrectly presented and the supporting text inconsistent and lacking in explanation. Furthermore, in circumstances where a housing requirement cannot be achieved due to reasons of perceived capacity it is debatable as to whether allowance should be made for flexibility – especially where it would appear to equate to approximately 10% of the Boroughs OAN. Given the Borough Plan has such a range of site allocations by way of size, scale and type with significant developer interest and involvement already we question whether such flexibility is necessary. Instead, we would suggest that a more appropriate and sound approach to the Borough Plan would be to recognise that this additional supply makes a further contribution towards the unmet needs of Coventry, thus reducing the suggested shortfall for NBBC to 686 (relative to the MOU requirement). Any subsequent concerns or issues over delivery shortfalls could then be managed and monitored through an explicit review mechanism for the Borough Plan. We return to this later. Given this background we confirm that our understanding is the Plans housing target is 13,374 homes (2011-2031).
- 23 In addition to uncertainty over the supply figures, we also retain concerns around site density and the allowances made for windfall delivery. The Borough Plan establishes a range of densities for its strategic allocations and as part of its SHLAA process. The lowest of these densities is 28dph (net) and based on our own analysis reflects an average net-gross site ratio of 57%. Firstly, these site assumptions are not justified within the evidence base that underpins the Plan or the SHLAA. Based on on-going engagement with NBBC we understand they are reflective of short term monitoring trends. Notwithstanding, we cannot accept that such figures in the context of a predominantly urban authority promote efficient or effective use of land in accordance with the NPPF. Secondly we are mindful that no specific policy is set out in relation to density meaning the

Plan could not retain any form of control over land efficiency on subsequent windfall sites or on allocated sites where density is not specified.

- 24 Based on our review of the Plan we note that site allocations HSG4, 7-11 and EMP2 have a density assumption of 28dph and a capacity of 2,634 homes. If this density assumption were increased to 35dph in line with the lowest figure for the other allocations this would add a further 659 homes to the housing supply. Coupled with the correction around the initial identified supply this would reduce the NBBC shortfall in unmet need for Coventry to just 27 homes.
- 25 With regards windfall delivery we recognise that the Plan makes allowance for 11 additional homes a year through this area of supply. Again there appears to be a lack of justifiable evidence to support this local assumption. In this context we feel the allowance could be higher, and if increased by just 2 homes a year for the remaining 15 years of the plan period would eradicate the remaining NBBC shortfall.
- 26 Furthermore, we continue to retain concerns about the assumptions and approaches taken in the SHLAA review. There appears to be a range of inconsistencies in site assessments and a reluctance to identify sites as developable where manageable constraints have been identified. In our view many of these constraints could be overcome with proactive approaches to new infrastructure delivery or replacement provision. Likewise constraints on sites could potentially be overcome having regard to sites identified with the Borough Plan, so unlocking linked infrastructure opportunities etc. The signatory authorities have outstanding queries and concerns regarding a number of SHLAA-sites where we have not seen sufficient evidence to justify their exclusion from the Plan. We reserve the right to publish further representations on these sites at the point the Plan is submitted should the signatory authorities have outstanding queries and concerns at that time. In this context, we believe these sites can provide significant additional capacity across the Borough. In our view this additional area of consideration would not only remove any outstanding shortfall but provide the additional flexibility the Borough suggests is appropriate. Further, in the some cases this could also be managed through an update of the SHLAA with a view to identifying longer term supply options that could be linked to a review of the Borough Plan or a supporting Development Plan Document such as the one currently being considered by Stratford.
- 27 Notwithstanding the comments above, it is also important that the housing requirement within the Plan be identified as a minimum. Not only would this would be consistent with the Plans adopted and evolving throughout the wider HMA, but it would also confirm with the positive approach to plan-making set out in national guidance and enable the prospect of additional housing to come forward in the Borough adding further flexibility to the supply position.
- 28 The signatory authorities consider that it is necessary for NBBC to engage constructively and enter in to dialogue in relation to the clear potential to address much of (if not all) of the Borough's housing shortfall in relation to the MOU. This would further strengthen the position of the HMA's housing supply as a whole (Para 20).
- 30 With regards employment needs we would first clarify that the HMA as a whole remains in a positive position regarding the planned quantum of employment land, especially for the short to medium term allowing for the adoption of emerging Plans and removal of existing policy constraints. This has been strengthened recently by appeal decisions in North Warwickshire in particular. In that context we welcome the provisions made within the Borough Plan to release land for employment use. Notwithstanding, we retain concerns about the quantum of land identified (relative to the MOU requirement) and also the overall approach to 1 particular site – at Pro-Logis Park, Keresley.

- 31 The Borough Plan identifies a shortfall of employment land (relative to the MOU requirement) of 9.4ha, however like the situation with housing the information is unclear and we have concerns that the shortfall is actually higher than this. For example, our review of the Borough Plan suggests the lack of site EMP3 and that the employment land trajectory and supply pipeline suggest a further shortfall of approximately 5ha when compared with the suggested supply figure of 103.6ha.
- 32 Based on our knowledge of the site proposal at Pro-Logis Park, Keresley and our on-going engagement with NBBC and the site promoters, we know that this site is approximately 5ha in size. It was also proposed for allocation in the previous draft of the Borough Plan. It has now disappeared without any explanation within the Plan. We understand that the principle issue relates to ecology however we also understand that such issues can be appropriately mitigated. This reflects our previous concerns regarding housing opportunities and the Borough Plans approach to combating manageable constraints to deliver additional homes and jobs. The opportunity to deliver further expansion at Pro-Logis Park, Keresley has already been recognised within the Coventry Local Plan given that the park straddles the administrative boundary. This is also reflective of the previous draft of the Borough Plan. As such, we would suggest the site be re-introduced to the Borough Plan to rectify any miscalculation in employment land supply and support the sustainable delivery of employment land across the HMA. It is also our view that when reviewing the SHLAA for additional housing opportunities that the same approach be taken with regards employment land.

### **Strategic Infrastructure**

- 33 In general we support the approach taken by the Plan in relation to strategic infrastructure. Notwithstanding, we feel the Plan and its supporting IDP make 2 oversights which should be specifically identified. The first relates to the upgrading of the A444 corridor, especially around Junction 3 of the M6. The Coventry Local Plan responds to joint work with the County Council as highways authority and identifies this as a strategic priority to support sub-regional traffic movement and connectivity between Coventry and Nuneaton. However, the Coventry Plan can only go so far in its regard for this area given its geographic location within Nuneaton and Bedworth. The Borough Plan and IDP should therefore recognise this ambition and strategic upgrade.
- 34 The second relates to the future proofing of the A5 and the potential for its widening. Since the publication of the Borough Plan pressures relating to the A5 and growth opportunities in North Warwickshire have suggested a need to support future expansion of this corridor. It is our view that the Borough Plan should respond positively to this strategic infrastructure requirement, by having a policy which will positively ensure that future expansion of the road is not restricted and that possible contributions can be secured.

### **Review Mechanism**

- 35 At this time the Borough Plan does not include an explicit review mechanism in order to respond to any delivery issues that may arise during the Plan period. This is an area of policy discussed at length at Local Plan examinations for North Warwickshire, Stratford, Warwick and Coventry, with all these Plans either containing such an approach or being subject to suggested modifications to introduce it.

36 It is our view that the Borough Plan would benefit from such a policy, especially in light of the wider housing and employment pressures as well as the emerging infrastructure pressures and cross boundary opportunities with regards to the revised North Warwickshire Local Plan.

### Housing Trajectory

37 Recent examination experience at Stratford, Warwick and Coventry has shown the value of a 'stepped' housing trajectory. Such a trajectory takes account of a Plans intended release of developable land to facilitate a step change in housing delivery. It also helps overcome any immediate shortfall in housing at the start of the Plan period and provides a realistic and justified platform from which to plan and monitor for the coming years. We would highly recommend that the Borough Plan be amended to include such a mechanism.

### Conclusions

38 It is the view of the signatory authorities that although NBBC has participated constructively within the development of the MOU's and supporting evidence, the timing of the information released, the identification of the shortfalls and the subsequent timescales means we retain serious concerns about how this engagement has informed, evidenced and been presented within the preparation of the Borough Plan. In short the approach taken to engagement by NBBC has not been legally compliant nor effective in the development of their Borough Plan.

39 In addition there are issues which remain around the soundness of the Borough Plan and its ability to meet the requirements identified in both MOU's. In this response we have sought to provide recommendations and examples of how these issues can be overcome in an effective and appropriate way. As stated earlier, **it is our view that the concerns we have raised regarding both DTC and soundness, can be overcome prior to the submission of the Borough Plan with additional engagement work, a range of early modification proposals and a Statement of Common Ground.** We would therefore welcome further on-going and constructive engagement prior to the Plans submission to overcome these issues.

40 Lastly, we would thank you for giving us the opportunity to comment and respond to the Borough Plan.

### Appendices

1: Joint Committee Report 27<sup>th</sup> January 2017

2: Joint Committee Report 8<sup>th</sup> March 2017

3: Housing Requirements MOU

4: Employment Land MOU