

Ian Kemp, Programme Officer
c/o Planning Policy and Projects
Development Services
Warwick District Council
Riverside House
Milverton Hill
Royal Leamington Spa
CV32 5HZ

Date: 28 March 2017
Your ref:
Our ref: ANDREWST\175442-New
Direct: +44 20 7919 0670
Email: stuartandrews@eversheds-sutherland.com

By Email (newlocalplan@warwickdc.gov.uk)

For the attention of Inspector Kevin Ward BA Hons MRTPI

Dear Mr Kemp

**Warwick Local Plan 2011-2029
Catesby Estates Limited
Land at Redhouse Farm, Leamington**

We act for Catesby Estates Limited in connection with the promotion of the above site at the Warwick Local Plan 2011-2029 Examination.

We understand that following the close of the Examination on 16 December 2016 that the District Council has published Main Modifications to the plan for consultation from 17 March 2017 until 5 May 2017. We also understand that the Inspector's Report detailing the reasons and justifications for the proposed modifications has yet to be published and, as such, it is not possible from the very limited information provided with the proposed Main Modification document to ascertain the basis upon which the proposed changes have been identified.

It is clear in a review of the relevant legislative framework that the Inspector is under a statutory duty in examination of the local plan to:-

"(a) make recommendation;

(b) give reasons for the recommendations."

(Section 20(7) of the Planning and Compulsory Purchase Act 2004)

It is also clear in review of the further provisions of section 20 of the 2004 Act that the District Council must also then *"publish the recommendations and the reasons"* (Section 20(8)).

This approach is carried forward in the Planning Inspectorate's recently published *"Procedural Practice in the Examination of Local Plans"* which requires that the content of the Inspector's Report should reach clear conclusions backed by reasoned judgements on the compliance of the PCPA including the duty to co-operate the regulations and meeting the requirements of soundness; and to then set out the main modifications to the policies and supporting text that are required to overcome any correctable aspect of soundness/legal non-compliance (Paragraph 6.1).

In this context, the procedural guide indicates that:-

"the plan is the LPA's document and the Inspector will only make recommendations on [Main Modifications] that are necessary to make the plan sound and legally compliant. Inspectors are required to ask themselves whether the plan would be unsound/legally non-compliant if the [Main Modification] was not made". (Paragraph 6.2)

lon_lib1\16025205\1\rolfev

Eversheds Sutherland (International) LLP is a limited liability partnership, registered in England and Wales (number OC304065), registered office One Wood Street, London EC2V 7WS. Authorised and regulated by the Solicitors Regulation Authority. A list of the members' names and their professional qualifications is available for inspection at the above office.

Eversheds Sutherland (International) LLP is part of a global legal practice, operating through various separate and distinct legal entities under Eversheds Sutherland. For a full description of the structure and a list of offices, please visit www.eversheds-sutherland.com.

The procedural guide further indicates that the Inspector's Report is intended to set out "*why any [Main Modifications] are recommended, with reference to the specific requirements for soundness/legal compliance as appropriate*" (Paragraph 6.4, fourth bullet point).

These requirements are further expanded upon in the section of the procedural guide dealing with Main Modifications which further indicates that:-

*"The PCPA requires that the report makes explicit that the plan as submitted (without the main modifications) should not be adopted and **gives reasons** why this is the case"*
(Paragraph 6.5 – emphasis added)

We are satisfied in review of the information provided as part of the proposed public consultation on the Main Modifications to the Warwick Local Plan that the statutory requirements of the Planning and Compulsory Purchase Act 2004 have not been satisfied. We would further contend that it is manifestly unreasonable for Warwick District Council to invite representations in respect of the proposed Main Modifications in the absence of the Inspector's Report or any interim document that provides the reasoning and justification for the proposed changes.

We would respectfully request that the current consultation exercise is postponed or extended to allow for a reasonable period of consultation once the Inspector's justification and reasoning for the proposed modifications is made available. We reserve our position to take any further action in the event that the current consultation process continues without appropriate provision being made to review the Inspector's findings and his reasons for the proposed main modifications.

We would be grateful for acknowledgement of receipt of this correspondence by return.

Yours sincerely



Stuart Andrews
Partner
Eversheds Sutherland (International) LLP