

Gedling Borough Council

Response to Matter 1

Legal Compliance, including the Duty to Co-operate

Issue 1a: Legal compliance with respect to the Local Development Scheme [LPD/POL/01]

Q1. Has the Plan been prepared in accordance with the Local Development Scheme?

- 1.1 The Local Development Scheme (LDS) (**LPD/POL/01**) was revised in September 2016 and approved by Cabinet at its meeting on 29th September 2016. The LPD includes the programme for preparing the Local Planning Document (LPD) which has been prepared in accordance with the LDS.

Q2. What is the scope of the Plan?

- 1.2 Appendix 1 of the LDS sets out the scope and content of the Local Planning Document (LPD) being comprised a suite of development management policies and site allocations to cover the whole Borough.

Q3. Having regard to the scope of the Aligned Core Strategy (ACS) and the Council's intentions, as set out in the Local Development Scheme, are there any obvious omissions, in terms of policy guidance, from the submitted Plan?

- 1.3 The Local Planning Document was scoped against the provisions and content of the NPPF, Aligned Core Strategy (ACS) and the results from the Gedling Borough Local Planning Document Issues and Options Consultation Document (**LPD/REG/23**) to ensure complete policy coverage. See separate document in the examination library entitled 'Assessment of Local Plan Policies against National Planning Policy Framework Requirements/ Principles' which sets out the results of this scoping exercise.

Issue 1b: Legal compliance with respect to the Statement of Community Involvement [LPD/REG/07]

Q4. Has the Plan been prepared in accordance with the Council's Statement of Community Involvement and met the minimum consultation requirements in the Regulations?

- 1.4 Yes, the LPD has been prepared in accordance with the Council's Statement of Community Involvement (SCI) which is called the Statement of

Consultation (**LPD/POL/02**). The Council considers it has exceeded the minimum standards set out in the regulations. In accordance with the Council's SCI a Consultation Strategy was prepared at the start of the LPD preparation process which was available on the Council's website (**LPD/REG/28**). The Council has consulted with statutory consultees, non-statutory consultees and the local community at the various formal and informal stages. The detail is contained in the Council's Report of Consultation on the LPD (**LPD/REG/07**).

Q5. Has the Council given interested parties the opportunity to make comments in a variety of forms, not just through the use of technology?

- 1.5 Yes, the Council has used a variety of methods to make people aware of the draft policies and proposals and also to enable people to express their views, as follows:-
- Use of adverts, posters, mail shots and letters to raise awareness;
 - Use of the consultation portal directly through the consultation webpage;
 - Acceptance of responses made by e-mail and by letter;
 - Use of social media, including Twitter and Facebook to raise awareness;
 - Feedback obtained through the completion of questionnaires at the village workshops and annotating comments on maps made available at the venue which were then collated and summarised;
 - Key stakeholders were invited to take part in various topic and technical workshops where notes of the meeting were taken and considered; and
 - Staff were available at exhibitions, for example at the Arnold Carnival, to answer questions and record views.

- 1.6 Details are set out in the Report of Consultation (**LPD/REG/07**).

Issue 1c: Legal compliance with respect to Sustainability Appraisal [LPD/REG/11 – LPD/REG/20]

Q6. Is the Plan legally compliant with respect to Sustainability Appraisal?

- 1.7 Yes, it is considered that the Sustainability Appraisal was carried out adequately (see response to Matter 2). Table 1 in the Sustainability Appraisal Publication Draft Main Report (**LPD/REG/11**) shows how the requirements of SEA Directive are met in the Sustainability Appraisal. The Council's approach to undertaking Sustainability Appraisal is based on the Government's planning practice guidance. The guidance is designed to ensure compliance with the requirements of the Planning and Compulsory Purchase Act 2004 and the Strategic Environmental Assessment Directive. Sustainability Appraisal has been carried out alongside the Local Planning Document as it developed. Further details are set out in the following documents:
- Sustainability Appraisal Publication Draft Main Report (**LPD/REG/11**) and its appendices A – H (**LPD/REG/12 to 19**); and
 - Sustainability Appraisal Publication Draft Addendum: Alternative Site Allocations for Housing (**LPD/REG/20**).

- Sustainability Appraisal Publication Draft Addendum 2: Appraisal of Housing Distribution for Key Settlements and Policies LPD62 and LPD63 (EX/12)

Issue 1d: Legal compliance with respect to the Habitats Regulations and any requirements for appropriate assessment [LPD/REG/21]

Q7. Is the Plan legally compliant with respect to the Habitats Regulations and any requirement for appropriate assessment?

- 1.8 It is viewed that the Habitats Regulations' requirements have been met which is evidenced in the Habitats Regulations Assessment (LPD/REG/21).
- 1.9 Natural England has confirmed in March 2016 that the HRA of the LPD provides an appropriate record of the HRA process to date and an appropriate screening of the proposed policies, in light of Natural England's Advice Note (updated March 2014) which recommends that authorities dealing with plans or projects in the Sherwood area take a risk based approach and future proof any plans adopted or development decisions made.

Q8. What were the main findings of the Habitats Regulations Assessment (HRA) that was carried out in relation to this Plan?

- 1.10 A review of the 24 proposed housing allocations and 2 employment allocations in the LPD shown in Appendix 3 of the Habitats Regulations Assessment (LPD/REG/21) confirms that there are no significant effects.
- 1.11 There have been changes in the housing distribution for the Local Planning Document when compared with the Aligned Core Strategy with a reduction in all areas apart from within and adjoining the urban area (being the area with least impact on the prospective Special Protection Area (pSPA)).
- 1.12 The proposed housing distribution in the Local Planning Document highlights that in the more sensitive areas with respect to pSPA the actual numbers have been reduced. One site in Calverton, Park Road, has a significantly fewer number of dwellings when compared with what was proposed in the ACS. However, mitigation measures will still be required including green infrastructure and visitor management which should help avoid the likelihood of a significant effect on the pSPA. The need for a further assessment of potential effects will be included within policy.

Issue 1e: Legal compliance with respect to the provisions of the 2004 Act and Local Plan Regulations 2012 (as amended) for the preparation of the Plan

Q9. Is the Plan legally compliant with the provisions of the 2004 Act and Local Plan Regulations 2012 (as amended) for the preparation of the Plan?

- 1.13 Yes it is considered that the LPD is consistent with the 2004 Act and the Local Planning Regulations 2012 relating to the preparation, publication and submission of the Plan. See separate document in the examination library entitled 'PAS Legal Compliance Checklist' which sets out the results of this scoping exercise. The checklist advises that if the Local Plan is intended to supersede any adopted development plan policies, it should state this (PAS Checklist stage five section 10). Whilst, it is considered that the diagram of the Local Plan in the Introduction section of the Local Planning Document illustrates the components of the Local Plan it is proposed to make a minor amendment to the Introduction making it clear that when adopted the Local Planning Document together with the Aligned Core Strategy (2014) will replace all of the policies in the Gedling Borough Replacement Local Plan 2005.

Issue 1f: Legal compliance with respect to national policy

Q10. Are there any policies in the Plan that do not accord with the National Planning Policy Framework or advice in the Planning Practice Guidance?

- 1.14 It is considered that the LPD is consistent with national policy in the National Planning Policy Framework (NPPF). See separate document in the examination library entitled 'Assessment of Local Plan Policies against National Planning Policy Framework Requirements/Principles' which sets out the results of this scoping exercise. The Council considers that the LPD is "sound" and the following addresses the bullets in paragraph 182 of the NPPF in order:-

- **Positively prepared** – the Aligned Core Strategies adopted across Greater Nottingham make provision to meet the objectively assessed housing need for the Nottingham Core Housing Market Area. The LPD allocates sufficient land to meet Gedling Borough's share of this distribution of housing in full. The other Part 2 Local Plans being prepared across Greater Nottingham will allocate sufficient land to meet remaining need and no unmet housing needs should arise;
- **Justified** – the SA has assessed all reasonable alternative policy options and the SA and site selection process has been used to assess all reasonable alternative sites. The LPD is justified and supported with an up to date and relevant evidence base;
- **Effective** - The joint working arrangements leading to the adoption of the Aligned Core Strategies have continued in order to support the preparation of Part 2 Local Plans across Greater Nottingham including the LPD and to address cross-boundary priorities; and

- **Consistent with national policy** – the LPD is considered to be consistent with the NPPF see response to question 2.

Q11. Are there any gaps in policy coverage? Have other policies been considered and discounted?

- 1.15 The Local Planning Document was scoped against the provisions and content of the NPPF, ACS and the results from the Issues and Options consultation to ensure complete policy coverage.
- 1.16 The Council consulted on Issues and Options in 2013 (**LPD/REG/23**) and policy options were also considered at Topic Workshops (**LPD/REG/27**). The documents relating to the Topic Workshops are available on the website: www.gedling.gov.uk/lpd.
- 1.17 Reasonable alternative policy options and reasonable alternative site allocations have been assessed through the SA process.

Issue 1g: Legal compliance with respect to the Duty to Co-operate [LPD/REG/07]

Q12. Is the Plan and its preparation compliant with the Duty to Co-operate imposed by Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) with prescribed bodies regarding cross-boundary strategic matters, including with regards to housing provision in particular?

- 1.18 The Council consider that they have complied with the Duty to Co-operate in full accordance with Section 33A of the Planning and Compulsory Purchase Act 2004 and met the objectives contained within paragraphs 178 to 181 of the National Planning Policy Framework and the Town and Country Planning (Local Planning (England) Regulations 2012.
- 1.19 As stated in the response to question 10, the Greater Nottingham Councils have cooperated and worked jointly to ensure provision is made to meet the objectively assessed housing needs for the Greater Nottingham HMA.
- 1.20 The Council has consulted with the relevant Duty to Cooperate Bodies and there are no significant outstanding cross boundary issues. Certain Duty to Cooperate Bodies have participated in the preparation of the Local Plan including adjoining LPAs, Nottinghamshire County Council, the Environment Agency, Historic England and Natural England. These bodies have either not raised any concerns or have confirmed that they consider that the Council has fulfilled its duty to cooperate.

Q13. Does the Council's Detailed Report on the Duty to Co-operate on the Local Planning Document (December 2016) [EX/11] demonstrate that the Duty to Co-operate been met?

- 1.21 The Detailed Report on the Duty to Co-operate on the Local Planning Document (**EX/11**) sets out in detail how the Council has collaborated with the various Duty to Cooperate Bodies and that the Duty to Cooperate has been met. The report confirms the history of joint working and cooperation between the three Councils, other Councils and key stakeholders within and adjoining Greater Nottingham. There is a plethora of joint studies addressing cross boundaries issues prepared by the Greater Nottingham Councils and other partners which are listed in the detailed statement. It also describes the cooperation with each individual duty to cooperate body and that there are no significant issues outstanding.
- 1.22 With respect to Ashfield District, the report sets out in detail meetings and discussions held with Ashfield District in relation to the ACS, LPD and also its participation in the Top Wighay Farm Development Brief. It is also acknowledged that the Council will need to continue to liaise closely with Ashfield District in future. The cross boundary impacts from developments located in Gedling Borough on areas in adjoining Districts are recognised and led the Council to adopt a Planning Obligations Protocol for dealing with cross boundary developments which is available from:
www.gedling.gov.uk/planningbuildingcontrol/planningpolicy/emerginglocalplan.

Conclusion

- 1.23 The Council considers it has complied with the requirements of the relevant Acts, regulations and with National Planning Policy. The LPD is compliant with the Council's Local Development Scheme and consistent with National Planning Policy Framework. The LPD has been positively prepared to meet the full objectively assessed housing needs for the area in accordance with the housing requirements and locational policies in the adopted ACS. The LPD provides the necessary policy scope and coverage is supported by an appropriately prepared Sustainability Appraisal.
- 1.24 The LPD policies and proposals were made available and publicised in a number of different ways in accordance with the regulations and responses have been accepted using a variety of means including written representations and those sent electronically. Those participating in workshops were also invited to feedback their views in person for consideration.
- 1.25 In meeting its Duty to Cooperate requirements, the Council has liaised with the various bodies, some of which have confirmed that they consider the Council has fulfilled the Duty. It is acknowledged that the Council will need to closely liaise with Ashfield District as part of the implementation of sites around Hucknall but it is considered that there are no outstanding significant issues arising from the Duty to Cooperate with the relevant bodies.

Further Proposed Changes

- 1.26 One amendment is proposed to make it clear in the Introduction of the Local Planning Document that when adopted the Local Planning Document together with the Aligned Core Strategy (2014) will replace all of the policies in the Gedling Borough Replacement Local Plan 2005.