

# ***Examination of the West of England Joint Spatial Plan***

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Dear Ms Fradd,

## **Examination of the West of England Joint Spatial Plan**

Thank you for submitting the West of England Joint Spatial Plan for examination on 13 April 2017 and we are very pleased to note that, in the last week or so, the examination website has gone "live". We would also to thank you and your colleagues for the work undertaken in preparing the helpful summary of key issues raised in consultation which supports the more detailed Reg 22 document (SD8A).

We are currently undertaking our initial assessment of the plan, the evidence submitted in support of it and the representations. Whilst this work is not yet complete we have identified a number of questions on which a response from the Councils would be helpful at this stage.

### **Duty to Co-operate**

We note the brief reference in the Statement of Engagement (SD8C) to letters sent to neighbouring authorities in May 2016. However, we would be grateful if the Councils would point us to any substantive evidence which demonstrates that, in preparing the plan, they engaged constructively, actively and on an on-going basis with neighbouring local authorities beyond the plan area.

### Habitats Regulations Assessment

You may be aware of the recent Court of Justice of the European Union judgement (*People over Wind, Peter Sweetman v Coillte Teoranta*) concerning Habitats Regulations Assessment (HRA). We would be grateful if the Councils would consider (taking legal advice if necessary) whether or not the HRA work submitted with the plan complies with this judgement and, if it does not, the nature of, and timescale for, any further work which may be necessary.

### Spatial Strategy

Policy 2 sets out the plan's spatial strategy which, in essence, comprises the four numbered elements listed in the first part of the policy, the first three accounting for around 83% of the proposed housing provision, the majority of which are existing local plan "commitments". The submitted Sustainability Appraisal (SA) work includes appraisal of this overall strategy. However, whilst the SA appraised a number of alternative spatial scenarios (eg avoiding change to Green Belt, transport focussed etc), is our understanding correct that these scenarios relate primarily or solely to the strategic development locations? If so, is it the case that in terms of the SA, reasonable alternatives have only been considered in relation to the fourth element of the spatial strategy and not to the other three elements of it or to the policy 2 spatial strategy as a whole?

### Selection of the Strategic Development Locations

We envisage that a key aspect of the examination will be the testing of the robustness (including consistency and objectivity) of the approach by which the strategic development locations (SDLs) included in the plan have been selected. The April 2018 Sustainability Appraisal Addendum note (SD9L) sets out at pages 9 - 15 the reasons why the chosen SDLs were selected and other possible alternative locations were rejected. Are we correct in assuming that consultation on this document has yet to take place?

Paragraph 28 of SD9L states that the plan includes those locations which have the most positive attributes having regard to (we presume) the seven factors listed in bullet points at that paragraph. In the light of the representations which have been made on (i) the individual SDLs, (ii) the approach to their selection and (iii) the Sustainability Appraisal, are the Councils confident that:

- the seven bullet point factors at paragraph 28 are consistent with the objectives by which the locations were appraised in the earlier SA work (notably the SD9I Locational Assessments)?
- the reasons given in pages 9 -15 of SD9L comprehensively and consistently explain why locations for development were selected or rejected in the light of the paragraph 28 bullet point factors?
- the submitted evidence as a whole demonstrates that the SDLs have been selected on the basis of a robust, consistent and objective approach?

### Green Belt

Paragraph 12 of the plan states that the authorities have concluded that there are exceptional circumstances to justify the release of certain locations from the Green Belt, a conclusion we will need to test through the examination. However, paragraph 13 states that Local Plan preparation will provide the mechanism to amend local Green Belt boundaries. In the light of this, are we correct in assuming that the Councils have concluded that, **in principle**, exceptional circumstances exist, but that the final decision as to their existence would be made through Local Plans having regard to precise boundaries proposed at that time?

### Affordable Housing Policy

We are likely to need to explore a number of questions concerning the soundness of Policy 3 during the examination, including the modification to the policy which the Councils have proposed in the Affordable Housing Topic Paper (SD14J). However, without prejudice to that, we note that the policy sets a minimum target of 35% affordable housing. Having specific regard to the use of the word 'minimum', do the Councils envisage refusing permission for a scheme which provides 35% affordable housing on the basis that it should provide more such accommodation?

Furthermore, we assume from its wording that it is intended that Policy 3 would apply to all new housing development of five dwellings or more, including any 'existing commitments' which have yet to secure planning permission. If so, the minimum 35% requirement appears to be out of kilter with the projection of delivery set out in Annex 1 of the Topic Paper. This identifies that 35% affordable housing is only envisaged to be achieved at the SDLs and Non-Strategic Growth sites (which together amount to around 20% of the total housing supply) with the vast majority of housing supply envisaged to provide substantially less than 35% affordable housing. We would welcome the Councils' comments on this apparent discrepancy. Moreover, the Topic Paper indicates that these projections take account of, amongst other things, viability considerations. However, are the Councils able to point us to any specific evidence to show that the projected rates of affordable delivery indicated in Annex 1, and the 35% requirement overall, would be viable and achievable in the case of most development likely to come forward and having regard to the likelihood of the availability of public subsidy?

### Employment

Policy 4 refers to supporting the creation of 82,500 jobs, although the Economic Development Needs Assessment (EDNA) (SB15B) deals only with jobs created in the 'B' use classes:

- Are the Councils satisfied that Policy 4 provides an adequate basis for meeting the full range of jobs expected to be created?
- Is there a reason why the plan does not provide any indication of the scale or type of employment land expected to be provided at the locations listed in Policy 4? And,
- In the light of the imbalances (identified in the EDNA) between the requirement for and the availability of employment land across the plan area, are the Councils satisfied that the approach set out in Policy 4 will ensure the right type and scale of employment land is delivered where it is needed?

In addition, we would be grateful if the Councils would point us to any assessments which have been carried out of reasonable alternative options to the scale and location of employment land which are proposed in the plan.

Whilst it relates to the questions we ask below concerning the strategic principles set out in Policies 7.1 – 7.12, it would also be helpful if the Councils would explain the justification for the employment land provision identified for the SDLs and the extent to which this is expected to meet overall job targets. Moreover, has the effect of potential employment development at the SDLs been factored into the expected growth in the city and town centres, Enterprise Zones and Areas and the key strategic infrastructure employment locations?

*Policies 7.1 – 7.12 – strategic principles and infrastructure requirements*

It is stated that the Policy 5 overarching place-shaping principles would apply to development at the strategic development locations. However, in addition to these, Policies 7.1 – 7.12 set out a large number of, in some cases quite specific, requirements which are akin to that commonly seen in a local plan policy allocating a site for housing development. We would be grateful for the Councils' comments on whether or not these principles and requirements would be justified and effective as formal plan policy (as opposed to supporting text or inclusion in the plan's evidence base) in the light of the plan's paragraph 66 statements that they will form the "starting point for their detailed assessment through the local plans", that they are "not exhaustive" and that they "will evolve as detailed assessment and masterplanning takes place at these locations". One would not normally expect a plan policy requirement to be a 'starting point' or to 'evolve'. Moreover, would their inclusion in the plan as formal policy requirements be likely to unnecessarily complicate the preparation, examination and adoption of the subsequent Local Plans, particularly if the requirements evolve as is envisaged?

We would also be grateful for the Councils' view on whether, at this point and in the absence of there being defined boundaries for the SDLs, they consider they would be able to demonstrate as being justified as formal planning policy all of the listed principles/requirements.

### Conclusion

We appreciate that the Councils may need some time to consider their response to the questions we have posed. However, in order to expedite the examination as quickly as possible, we would be grateful for an initial reply by 15 June 2018 giving a response in full on any of the questions which can be answered by that date, and an indication of the likely timescale for answers/comments on any outstanding questions. In the meantime please arrange for this letter to be posted on the Examination website.

Since drafting this letter Robert has today alerted us to the Councils' intention to prepare/submit further evidence in support of the plan, including the Sustainability Appraisal and in relation to transport mitigations. It would seem to make sense for you to consider the scope and timescale for this extra work along with your responses to the questions posed in this letter. We will obviously need to liaise further about the nature of and timescale for any further work and arrangements for consultation on it. However, it may be that a pause in the examination whilst this work is carried out would an appropriate way forward.

Yours sincerely

*Malcolm Rivett* and *Steven Lee*

INSPECTORS