

Annex 1: Councils' Response to Inspectors Preliminary Query of 1st June 2018 (ref ED01)

Inspectors' Questions	WoE Response
<p>Question 1: 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 ongoing basis with neighbouring local authorities beyond the plan area.</p>	<p>In addition to the 4 WoE UAs working together to prepare the JSP, the UAs have also engaged with adjoining authorities at both a West of England level and at an individual UA level. Details of the engagement undertaken are attached as Annex 2.</p> <p>None of the adjoining LPAs have made in principle objections on failure to comply with DtC.</p> <p>In addition the West of England has a Strategic Solutions panel of prescribed bodies that meets around twice a year. Neighbouring Authorities are invited to these meetings should they wish to attend.</p> <p>(NB During the process of preparing the JSP, 3 of the UAs - BCC, SGC & B&NES - became a Combined Authority as WECA)</p> <p>We will prepare Statement of Common Grounds with each of our neighbouring Authorities to document our updated relative positions by 17th September 2018, ahead of the Examination hearings.</p>
<p>Question 2: Habitats Regulations Assessment You may be aware of the recent Court of Justice of the European Union judgement (People over Wind, Peter</p>	<p>The WoE Councils note the ramifications of the Court of Justice of the European Union judgement which was made just before the JSP was submitted, is of potential relevance to all Local plan HRAs currently in Examination. In light of this</p>

<p>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.</p>	<p>judgement and subsequent legal advice, the Councils have concluded that the JSP HRA Process requires further work. As indicated by the Inspectors, this has implications for the exam timetable and this is considered in the covering letter</p>
<p>Question 3: 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.</p> <p>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?</p>	<p>The SA primarily appraised the SDLs and only appraised the other components of supply as part of the wider strategy because:</p> <ul style="list-style-type: none"> • In relation to existing commitments, it would not be a reasonable option to consider alternatives to extant plans which have been subject of SA to get to adoption. • Urban Living entails maximising PDL which is a priority in the NPPF and the Councils did not consider that there was any real reasonable alternative to this approach. • Non-strategic growth relates to smaller scale growth yet to be identified in future Local Plans and will be appraised through the Local plan process. • SDLs entail large scale strategic growth which is where the assessment of reasonable alternatives is appropriate and meaningful in the context. <p>As advised in our covering letter the UAs are undertaking additional sustainability appraisal work which if required can take on board any feedback from the Inspectors.</p>
<p>Question 4: Selection of the Strategic Development Locations</p>	<p>The Councils confirm that the April 2018 Sustainability Appraisal Addendum note (SD9L) has not been subject to consultation it was prepared to bring together</p>

<p>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?</p> <p>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:</p> <ul style="list-style-type: none">• 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?	<p>existing evidence and to provide clarity following response to the Reg 19 consultation. NB see Council response in the covering letter as to how the Councils suggest that this could be incorporated into the examination process.</p> <p>The Seven bullet points in para 28 and the reasons in pages 9 -15 of SD9L are a summary of the Councils' overall planning judgment on the selection of SDLs whereas the Locational Assessments in SD9I are the sustainability appraisal of the alternative locations. Therefore SD9L is a broader assessment than SD9I, which summaries the process of formulating the most appropriate strategy set out in Topic Paper 2 SD7A.</p> <p>However, as noted in the conclusion of the Inspectors' letter, the Councils are undertaking further work in relation to the Sustainability Appraisal which will provide specific responses to the three questions asked by the Inspectors.</p>
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<p>Question 5: <i>Green Belt</i> 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?</p>	<p>The Inspectors' description is correct that as a strategic plan, the JSP makes the in principle decision that there are exceptional circumstances to release the 12 SDLs listed in Policy 2 from the Green Belt (see SD7A paras 3.11 and 4.11 to 4.12) and that these 12 SDLs should be allocated in Local Plans in order to meet the sub-regional housing need to 2036.</p> <p>It will be the role of the UA Local Plans to conform with the strategic policies in the JSP and to remove the SDLs from the Green Belt through formally allocating them by defining a site boundary and amended detailed local Green Belt boundaries. The UA Local Plans will not need to revisit the exceptional circumstances for releasing these locations from the Green Belt.</p>
<p>Question 6: <i>Affordable Housing Policy</i> 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.</p> <p>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?</p>	<p>Policy 3 will supersede existing UA Local Plan policies and will be the basis of planning decisions under s38(6) of the Act once the JSP is adopted. Therefore under Policy 3 of the JSP, planning permission will be refused if the 35% requirement is not met, unless material considerations indicate otherwise.</p>

	<p>The 'minimum target' in Policy 3 enables the Councils to require a higher % of AH (i.e. over and above 35%) on sites where this would be viable and where allowed under relevant Local Plan policy. Bristol and B&NES adopted Local Plans currently have a requirement for 40% AH in some limited high value areas. Each of the four WoE UAs will set out their new policies in their new Local Plan and this could require more than 35% if justified.</p>
<p>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.</p>	<p>It is correct that there is an apparent discrepancy between the application of Policy 3 and the data on anticipated supply set out in SD14J. Whilst the Councils will apply JSP Policy 3 to new proposals from adoption, they have taken slightly more cautious approach in assessing the likely JSP AH delivery for the following reasons;</p> <ul style="list-style-type: none">• The AH delivery projections in Annex 1 of SD14J are based on existing policy for (1) completions since the start of the plan period, (2) planning permissions and (3) other existing commitments and sites which are already advanced, and• Whilst the policy requirement will be 35%, an average of 20% has been assumed for the urban living component in light of the potential for there to be other material considerations which might affect delivery <p>Therefore the Councils have been conservative and successful application of the policy is likely to generate higher levels of affordable housing. If helpful the UAs could provide a calculation of the policy compliant AH supply for the Inspector(s).</p> <p>NB Annex 1 of SD14J Topic Paper 6 Affordable Housing (April 2018) should be read alongside the underlying assumptions made for the supply projections at paras 3.10-3.19 in the same Topic Paper.</p>

<p>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?</p>	<p>The primary evidence supporting this policy is <u>Topic Paper 4 (SD 13) on the viability of SDLs</u>. The Councils' existing viability evidence underpinning current Local Plans demonstrated that a range of 30 to 40% was viable, is also relevant to the Policy 3 target</p> <p>In order to deliver the projections in Annex 1 to SD14J, a robust approach to site viability will be taken and will require a stringent viability assessment including early and late-stage reviews on all sites where it is claimed that the full AH requirement is not viable – see para 3.20-3.22 of SD14J Topic Paper 6.</p> <p>AH delivery is a significant priority and the intention is that the delivery of AH will not be compromised by strategic transport costs as these will be supported separately by a strategic approach to leveraging in infrastructure funding to support the JSP. For example two strategic transport schemes have been shortlisted for HIF Forward Funding and this will have a positive impact on site viability.</p> <p>Government has announced an interim housing package with the West of England in March 2018. Work is continuing with MHCLG on the details of a Housing Deal with the West of England Combined Authority which will potentially include funding to increase the delivery of Affordable Housing by 25%. It is intended that this programme will be additional to the existing Homes England National Affordable Homes Programme and the capital funding programmes run by the four UAs. Separately, Homes England has invited volume bids from Registered Provider partners under a new way of working to accelerate AH delivery, and this would also bring additional public subsidy into the sub-region.</p>
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	<p>An assessment of the capacity and appetite of Registered Providers to deliver the Affordable Housing target has been carried out, supported by a Statement of Commitment. (See paragraphs 3.52-3.56 and Annex 3 of SD14J).</p>
<p>Question 7: 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:</p> <ul style="list-style-type: none"> • 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? <p>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.</p> <p>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</p>	<p>The Councils are satisfied that Policy 4 provides an adequate basis to support the continued economic growth of the West of England. The strategic employment issue addressed by the JSP is the provision of land for B class uses. Policy 4 provides a high level framework that identifies the key strategic employment locations For the WoE it is considered that employment provision in other use classes is appropriately addressed at the Local Plan level through existing city centre, town, district and local centres. See also the Employment Topic Paper (ref) which outlines non-B use class jobs.</p> <p>The scale and type of employment land provision is not detailed at the strategic employment locations listed in Policy 4 as for existing City, town, district and local centres this is provided where appropriate through the Local Plans. In relation to the strategic employment locations identified at Bristol Port, Bristol Airport and Oldbury Power station new nuclear build, the detail of land availability has yet to be confirmed. This will be picked up in the Local Plan reviews.</p> <p>Additional work is ongoing in preparation for the 4 Local Plan reviews to consider further the historic delivery of office accommodation, and the component of provision which has been replacement activity. This will also help to clarify requirements for employment land for this sector at the strategic level. It is anticipated that this information will be available during the examination period.</p> <p>No independent assessments have been carried out on reasonable alternatives for the scale and location of employment land. It is considered that all</p>

<p>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.</p> <p>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?</p>	<p>appropriate opportunities have been included in line with the strategic vision and are embedded within the scenarios tested.</p> <p>The JSP identifies the potential for strategic employment land at Bristol Airport and Bristol Port as requested by the industry.</p> <p>SDLs have been identified for mixed use development including B Use Class employment. The quantum of proposed employment uses within each SDL varies. The Strategic Development Location Assessment Methodology Paper SD11b, explains at paragraphs 3.8 to 3.10 that an initial assessment of employment provision was undertaken on some of the SDLs using a standard approach, (based on indicative multipliers set out within the Barton Willmore's Wolfson Economics Price 2014 Final Submission "Be a Pioneer"). This was subsequently refined through more detailed work which Policies 7.1 to 7.12.</p> <p>Provision and take up of employment land at the SDLs is planned to contribute to meeting overall job targets and contribute to ensuring a sufficient portfolio of employment land is available across the West of England to meet expected employment demand and jobs growth</p> <p>The city centre/EZs are the priority locations for employment growth in the WoE and the UAs are focussing actions on and are confident of delivery of anticipated employment growth at these locations. The UAs have been successful in securing EZ designation and MHCLG support. They are also the most accessible locations for employment growth. Employment development at the SDLs will not compete with and will play a supporting role to these priority employment locations (e.g. North Keynsham in supporting Bristol strategy/provision along A4 corridor, other SDLs a sustainability/balanced community type role. In relation to the effect of potential employment development, inclusion of employment land at the SDLs has taken into account accessibility of existing employment provision. The</p>
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	<p>allocation process of the SDLs in Local Plans will consider the quantum and type of employment required in more detail. Where this work has already progressed at SDLs, this is indicated through reference to potential area of the location to be available for employment.</p> <p>The Councils purposefully include Policy 7 in the JSP in order to establish clear, consistent, requirements for strategic development across the sub-region. Including strategic development requirements in the JSP will facilitate delivery by establishing the necessary development principles early on in the development process. The requirements are justified and are based on robust evidence such as that set out in the Strategic Development Location Templates (November 2017) SD 11A. Once the JSP is adopted, requirements will have the full weight of section 38(6) of the Planning and Compulsory Purchase Act 2004. In providing any further detail, Local Plans will need to conform to Policy 7.</p> <p>Establishing clear strategic policy requirements could also assist the Councils in the event that planning applications come forward prematurely in advance of the adoption of the JSP.</p> <p>The Councils recognise that the wording in para 66 introduces some ambiguity and is open to considering amendments during the exam process to provide greater clarity.</p>
<p>Question 8: Policies 7.1 – 7.12 – strategic principles and infrastructure requirements</p> <p>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.</p>	<p>The Councils purposefully include Policy 7 in the JSP in order to establish clear, consistent, requirements for strategic development across the sub-region. Including strategic development requirements in the JSP will facilitate delivery by establishing the necessary development principles early on in the development process. The requirements are justified by robust evidence such as that set out in the Strategic Development Location Templates (November 2017) SD 11A. Once</p>

<p>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.</p>	<p>the JSP is adopted, requirements will have the full weight of section 38(6) of the Planning and Compulsory Purchase Act 2004. In providing any further detail, Local Plans will need to conform to Policy 7.</p> <p>Establishing clear strategic policy requirements could also assist the Councils in the event that planning application come forward prematurely in advance of the adoption of the JSP.</p> <p>The Councils recognises that the wording in para 66 introduces some ambiguity and is open to considering amendments during the exam process to provide greater clarity.</p>
<p>9. 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</p>	<p>See covering letter</p>

<p>meantime please arrange for this letter to be posted on the Examination website.</p> <p>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.</p>	
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