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Our Ref: PINS/K2420/429/8

Date: 4<sup>th</sup> August 2014

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Dear Richard,

**HINCKLEY & BOSWORTH BOROUGH COUNCIL'S EARL SHILTON & BARWELL AREA ACTION PLAN: FINAL REPORT**

Thank you for your letter of 1<sup>st</sup> August 2014, providing your comments in response to the fact check of the Inspector's report on the Council's Earl Shilton & Barwell AAP.

The Inspector has corrected the errors that have arisen and made the amendments to the report where appropriate, and I enclose your final report.

Clearly it is now for the Council to adopt the Document at its discretion. The Inspectorate maintains a national database of Local Plans progress on the Planning Portal (and a submissions database) and we would be grateful if you can advise the Plans Team when you adopt in order that your plan status can be updated.

Please provide us with a Purchase Order Number so that we can include it on your invoice. Both the fees and expenses will be payable for all duties carried out in examining your Local Plan.

The Council should consider whether adoption could have any effect on appeals currently being considered by the Planning Inspectorate. As you know, appeals must be determined on the basis of the development plan as it exists at the time of the Inspector's (or the Secretary of State's) decision, not as it was at the time of the Council's decision. If adoption changes the policy position, the relevant Inspector(s) will need to take that into account. In addition, please ensure that your new policy position is clearly explained when submitting your Questionnaire in relation to future appeals received after adoption.

If the above circumstances apply, it would be very helpful if the Council could contact the relevant Case Officer(s) in the Planning Inspectorate dealing with any outstanding case(s) at the time of adoption.

Yours sincerely

Steve Carnaby

Plans Team



The Planning Inspectorate

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# Report to Hinckley and Bosworth Borough Council

by John R Mattocks BSc DipTP MRTPI FRGS

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 4<sup>th</sup> August 2014

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## REPORT ON THE EXAMINATION INTO THE EARL SHILTON AND BARWELL AREA ACTION PLAN

Document submitted for examination on 13 December 2013

Examination hearings held on 27-28 March and 2-3 April 2014

File Ref: PINS/K2420/429/8

## Abbreviations Used in this Report

AAP	Area Action Plan
CIL	Community Infrastructure Levy
CS	Core Strategy
DtC	Duty to Co-operate
ELA	Employment Land Assessment
HCP	Hinckley Cycle Network Plan
HMA	Housing Market Area
LDS	Local Development Scheme
LLITM	Leicester and Leicestershire Integrated Transport Model
MM	Main Modification
NPPF	The National Planning Policy Framework
PC	Proposed Change
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
STA	Strategic Transport Assessment
SUE	Sustainable Urban Extension
'The plan'	The Earl Shilton and Barwell Area Action Plan

## **Non-Technical Summary**

This report concludes that the Earl Shilton and Barwell Area Action Plan is an appropriate basis for the planning of the two named settlements provided that a number of modifications are made to the plan. The Hinckley and Bosworth Borough Council have specifically requested me to recommend any modifications necessary to enable the plan to be adopted.

All of the modifications to address this were proposed by the Council but where necessary I have amended detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- MM1 The housing trajectory, paragraph 10.5, to be deleted;
- MM2 Policies 6 and 12 to be more positively worded;
- MM3 A revised Infrastructure Schedule to be included;
- MM4 The wording of Policy 23 to be amended for clarification;
- MM5 The wording of Policy 8 be amended for consistency with Policy 14;
- MM6 That Policy 19 and supporting text be re-worded to clarify the means to implementation and make it more effective;
- MM7 The wording of Policies 9 and 15 to be amended to clarify the provision of facilities for community policing;
- MM8 That reference to the Highway Authority be deleted from the end of the second paragraph in Policies 10 and 16;
- MM9 The wording in the second bullet point of Policy 10 and the supporting text to be amended to clarify the future use of Mill Lane;
- MM10 A new Appendix 7 to be inserted which lists those policies in the plan which supersede policies in the adopted local plan and
- MM11 Figure 3 'submission Proposals Map' to be deleted from the plan.

## Introduction

1. This report contains an assessment of the Earl Shilton and Barwell Area Action Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). Firstly it is considered whether the preparation of the plan has complied with the duty to co-operate, in recognition of the fact that there is no scope to remedy any failure in this regard. Secondly, it is considered whether the plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) makes clear that to be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy.

2. The starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the submitted draft plan (December 2013) which is the same as the document published for consultation in July 2013. The Council submitted, along with the plan, a schedule of 24 proposed changes to the draft plan (*Doc. AAP13*). These are mostly, but not entirely, of a minor nature and have not been subject to consultation. However, where the proposed changes concern matters on which the plan is unsound appropriate main modifications are recommended. Otherwise, it is for the Council to decide which of the proposed changes they wish to make as additional modifications to the plan.

3. This report deals with the main modifications that are needed to make the plan sound and legally compliant and they are identified in bold in the report **(MM)**. In accordance with section 20(7C) of the 2004 Act the Council requested<sup>1</sup> that I should make any modifications needed to rectify matters that make the plan unsound/not legally compliant and thus incapable of being adopted. These main modifications are set out in an annex to this report.

4. The main modifications that are necessary for soundness and/or legal compliance all relate to matters that were discussed at the Examination hearings. Following these discussions, a schedule of proposed main modifications was prepared and the Council arranged for the schedule to be the subject of public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made an amendment to the detailed wording of main modification 5. This amendment does not significantly alter the content of the modifications as published for consultation or undermine the participatory processes and sustainability appraisal that has been undertaken.

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<sup>1</sup> By letter dated 6 February 2014, doc. EX06

## Assessment of Duty to Co-operate

5. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on them by section 33A of the 2004 Act in relation to the preparation of the plan.

6. The AAP has been prepared primarily to give effect to proposals within the adopted Hinckley and Bosworth Core Strategy for the development of sustainable urban extensions (SUEs) to the settlements of Earl Shilton and Barnwell. The plan area is restricted to the two settlements including the areas proposed for the two SUEs. There are no land use proposals in the plan other than those required to support the SUEs. As a result, there are few cross-boundary implications other than in terms of transport impact.

7. In this context it is right that the Council's statement of the Duty to Co-operate focusses on their working relationship with the Highways Agency, County Highways Authority and those of adjoining Counties and Districts in a consideration of the strategic transport implications of the developments. In particular, this covers the impact on the A5 trunk road taking account of planned employment and housing developments in the neighbouring areas within Warwickshire as well as Leicestershire.

8. Evidence has been provided (*Doc. EX05*) of the workings of the A5 Transport Liaison Group. From this and other information supplied I am satisfied that the Duty to Co-operate has been fulfilled in so far as it is appropriate given the nature of the plan.

## Assessment of Soundness

### Preamble

9. As stated in paragraph 182 of the National Planning Policy Framework (NPPF), to be found sound a plan should have been positively prepared, justified, effective and consistent with national policy. National policy is contained in the NPPF supplemented by Planning Policy Guidance (PPG) issued in March 2014, which was after the start of the examination into this plan but before the hearings took place. The PPG, which is a web-based resource, does not constitute new policy and although participants were notified of its issue so that they might refer to it as appropriate, it did not warrant further consultation.

10. The entry for the AAP on page 17 of the adopted Local Development Scheme (*Doc. AAP 06*) states under 'role and subject' that the plan is 'to set out detailed policies and site proposals for the delivery of two Sustainable Urban Extensions at Barwell and East Shilton.' It also includes the identification of redevelopment and regeneration opportunities in the centres of Earl Shilton and Barwell and, in section 8, 6 development management policies which apply within the plan area.

11. The proposals for the two Sustainable Urban Extensions (SUEs) are contained in the adopted (2009) Hinckley and Bosworth Core Strategy (CS). In particular, CS paragraphs 4.18 to 4.20 together with policy 2 covering development in Earl Shilton, policy 3 covering development in Barwell and policy 5 covering Transport Infrastructure provide a very clear context for the preparation of the AAP.

The Core Strategy policies are specific as to the scale of the developments and their locations 'to the south' of Earl Shilton and 'to the west' of Barwell. Alternative options were appraised in detail in the examination of that plan (*Doc. AAP 08*).

12. The Core Strategy has, therefore, established the principle of the two SUEs and their general location. The principle has not, therefore, been a matter for this examination. The main issues for the examination of the AAP focus on the degree to which the policies in the plan will be effective in delivering the objectives of the CS policies and, together with CS policy 5 on Transport, will ensure that the proposed developments are, indeed, sustainable.

### **Main Issues**

13. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified 13 issues upon which the soundness of the plan depends.

#### **Issue 1 – whether the reduction in the total number of houses to be provided in the Earl Shilton SUE would result in a serious shortfall in Borough-wide housing provision or in a distribution which would not accord with the adopted Core Strategy.**

14. The adopted Core Strategy was in general conformity with the now revoked East Midlands Regional Plan and provides that 9000 houses should be built in Hinckley Borough 2006-2026. In 2009, taking account of the identified supply, land was required to be identified in the plan for just over 5000 houses. Under CS policies 2 and 3 together the 2 SUEs are to provide a total of 4500 'environmentally sustainable homes', which is a very large proportion of the additional provision to be made in the Borough. The successful implementation of the proposed developments is, therefore, critical to the overall strategy to 2026. As stated in paragraph 182 of the NPPF, to be regarded as 'positively prepared' the plan should meet 'objectively assessed housing needs'. The Leicestershire SHMA (*Doc. EB40*) prepared in 2008 is to be updated, but any re-assessment of Borough-wide housing needs is beyond the geographical scope of this AAP.

15. AAP policy 7 states that a minimum of 1600 homes will be provided in the Earl Shilton SUE. That represents a reduction compared to the Core Strategy provision of 400 houses, or 20%. AAP Policy 13 provides for 2500 dwellings within the Barwell SUE, which accords with CS policy 3. The AAP includes, at paragraph 10.5, a development trajectory for the two SUEs alone which shows 2250 completions by 2026 at Barwell and 1550 at Earl Shilton. The latest information is contained in an updated (October 2013) Borough-wide housing trajectory which shows 2320 completions in the Barwell SUE and 1400 at Earl Shilton, a total shortfall against the CS of 780 dwellings as at 2026. However, the



SUE developments would continue for a time beyond 2026 until fully complete.

16. The Council draw attention to paragraph 4.8 of the CS and to the housing trajectory in Appendix 2 which shows a planned over-provision in the Borough to 2026 of 667 dwellings. The Inspector who examined the submitted Core Strategy recognised<sup>2</sup> that detailed capacity figures for the SUEs could not be conclusively identified until the completion of master-planning work and the AAP itself. I heard that the removal of the Water Treatment Works at Earl Shilton, although discounted at present, remains under discussion and could add a further 200 dwellings. Otherwise, the main reason for the reduction in numbers is a reduction in overall development density from the 40 dwellings per hectare required under CS Policy 16. That is as a result of the master-planning work, changes to Government policy and a shift in market demand towards 'family' housing, although the developers expect increased demands for smaller homes, partially as the result of the 'bedroom tax'. I accept the reality of the current situation.

17. The revised October 2013 trajectory shows a total of 9971 completions Borough-wide 2006-2026 despite the reduction in provision at the two SUEs. It is not a matter for this examination to test the deliverability of sites other than those within the restricted plan area but, on the basis of the information supplied, I conclude that the reduction in provision in Earl Shilton is unlikely to result in a serious shortfall in housing provision in the Borough as a whole. Any remedy for a shortfall would also need to be considered Borough-wide either through the forthcoming Site Allocations DPD or in a new comprehensive Local Plan. The distribution shown in the trajectory is in accordance with the Core Strategy with a focus on the main urban area of Hinckley and Burbage together with Earl Shilton and Barwell. Provision in the rural settlements is limited, primarily to meet local needs.

18. The housing trajectory in paragraph 10.5 has an October 2012 base date. The Council initially put forward a proposed change (PC18) to substitute the whole Borough housing trajectory updated to April 2013. However, the trajectory is updated every 6 months and by the time the hearings took place the figures for October 2013 were available showing a further amendment to the figures through slippage in the estimated start date (PC47). It would seem likely that the April 2014 figures will be available before the AAP is adopted. The housing trajectory is an important part of the evidence base for the plan but there is no requirement for it to be included in the plan itself. There is no policy directly linked to the trajectory, such as a phasing policy, although it links to delivery under Spatial Objective 1 in the monitoring framework. Inclusion of the trajectory means that the submitted plan is already out-of-date. For that reason, I consider it unsound because it runs counter to the intention behind the advice in paragraph 17 of the NPPF. A main modification **(MM1)** is required to delete paragraph 10.5.

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<sup>2</sup> Doc. AAP08, Inspector's report, paragraph 3.48

**Issue 2 – whether the proposals will result in an adequate provision of affordable housing in the Borough.**

19. There is no policy in the AAP relating to affordable housing. CS Policy 15 applies as is stated in paragraph 4.36 of the plan text where reference is made to the target of 20% on-site provision within both SUEs. It is also stated in that paragraph that where the affordable housing target is not met within the SUEs, the Council will seek commuted sums 'to contribute towards affordable housing schemes with the wider urban area'. It is only in the last entry of the Infrastructure Schedule where it is indicated that developer contributions of over £20m. will be sought for the two SUEs 'in lieu of half of the on-site policy requirement of 20% affordable housing'.

20. It is stated in CS policy 15 that there may be site-by-site negotiations taking into account local needs, existing provision, site characteristics and viability although commuted sums in-lieu of on-site provision is indicated to be acceptable only 'where there is already a high proportion of affordable housing'.

21. The commuted sums required are derived from the Affordable Housing SPD (*Doc. AAP12*) and are not at issue. The Barwell consortium confirmed that they have agreed to provide the 20% contribution sought with half as a commuted sum. There was no indication that a similar arrangement would not apply in Earl Shilton.

22. The Council confirmed a commitment to the provision of affordable housing to meet needs. Clearly the totality of provision, even at 10%, significantly exceeds identified needs in Barwell and Earl Shilton and would provide a high proportion of Borough-wide need. As the Council explained, the commuted sums would directly assist in a wide variety of schemes to provide affordable housing where it is most needed; including on brownfield sites within urban areas where development costs are high and might not otherwise be viable; in the purchase and renovation of empty property; in the buy-back of existing (former council) housing stock and in the purchase of rural exception sites and in new build (partnership) housing. Overall, the Council's approach is more flexible than envisaged in CS Policy 15; it reflects current market conditions and is adequately justified in the terms highlighted in the last bullet point of paragraph 50 of the NPPF. It is a sound approach.

### **Issue 3 – Whether the Sustainable Urban Extensions are deliverable within the envisaged timescale.**

#### *Timing*

23. There has been considerable slippage in the start dates for the urban extensions. The housing trajectory included as Appendix 2 to the adopted Core Strategy shows the first completions during 2012/13. The trajectory in paragraph 10.5 of the submitted plan shows completions on both SUEs during 2014/15 (this year) whereas the revised October 2013 trajectory shows the first completions on the Barwell SUE during 2015/16 and on the Earl Shilton SUE during 2016/17 with neither development completed in 2025/26.

24. On 23 April 2013 the Council resolved<sup>3</sup> to grant outline planning permission for the Barwell development subject to 52 conditions, many of which require the submission of further details such as a detailed phasing programme, and a s106 agreement covering many of the requirements set out in the Infrastructure Schedule of the AAP. The Council have confirmed that progress is being made in negotiations on the terms of a s106 agreement and that the planning permission is expected to be issued by October 2014. The outline application for the Earl Shilton SUE is now expected to be submitted by 'late summer/early Autumn'. Although these dates represent some slippage compared to the position when the examination hearings took place the time estimates in the housing trajectory are not seriously affected.

25. In due course, reserved matters applications will need to be submitted. Development may not commence until those have been approved and numerous other conditions met. Assuming there is no significant delay through the need for site preparation there must remain a degree of uncertainty as to when the first housing completions might be expected. Nevertheless, the trajectory has been drawn up with the full co-operation of the two development consortia. They have confirmed that the first phases of the development within each SUE will not require major infrastructural investment thus enabling an early start to be made. They are confident that completion of the first dwellings in each SUE will be as shown in the latest trajectory. I have no reason to dispute these claims.

#### *Total completion rate*

26. The Core Strategy provides for an average completion rate across the whole Borough of 450 dwellings a year ( $9000 \div 20$ ). For the two SUEs together a rate of 400 a year is shown between 2017/18 and 2021/22. The latest trajectory shows a gradual rise to 450 dwelling completions in 2020/21 and 400 thereafter.

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<sup>3</sup> Committee report, document BPA01

27. Evidence<sup>4</sup> from the Barwell Consortium is that up to 6 different building companies may be active on that SUE, delivering 40-50 residential units each a year, i.e. 240-300 dwellings a year. Four developers/housebuilders are involved in the Earl Shilton Consortium<sup>5</sup> which, on a similar basis would yield 160-200 dwellings a year. On that basis, it is accepted that there is potential for two SUEs together to yield 400-500 dwellings a year. It has to be recognised, however, that these are assumptions and rely upon a whole range of outside factors which determine demand. Large developments of this type are able to create their own market<sup>6</sup>.

28. The assumptions underpinning the trajectory are not unrealistic and thus the proposals for the SUEs are sound in this regard.

**Issue 4 – Whether the proposed development of the Sustainable Urban Extensions will be viable taking account of the package of infrastructure works required to support them, together with other financial contributions required to support the regeneration of the existing settlements.**

29. The Council commissioned a viability and deliverability assessment of the two Sustainable Urban Extension proposals from DTZ. (*Doc. EB31*) The report looks at market factors and makes assumptions as to the timing of infrastructure provision. As detailed information on phasing was not available to the consultants a 'conservative' estimate was made as to the front-loading of infrastructure costs. Moreover, there are opportunities to commence developments at both SUEs with minimal infrastructural work in the early years and thus not giving rise to high up-front costs.

30. Questions were raised in examination about several of the assumptions made in the DTZ assessment. Build costs used are in the lower quartile of the RICS Building Costs Index, at £80 per sq.ft., but it is clear that such a large development would produce significant economies of scale. The methodology covers the full build period and assumes a somewhat lower build rate than shown in the Council's housing trajectory. There is a full analysis of achieved sale prices and in view of the variety of house types to be provided and the effective creation of a new market, there is no reason to think that the assumption on total receipts is overly optimistic.

31. The viability assessment has proved to be robust. In the terms of paragraph 173 in the NPPF, the Barwell SUE is calculated to give a competitive return to a willing landowner of £118,000/acre, while Earl Shilton is estimated to provide £134,000/acre, both well above the threshold land value of £100,000. Developers

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<sup>4</sup> HBBC Supplementary Statement for Matter 1, Appendix 1, para. 2.

<sup>5</sup> HBBC Supplementary Statement for Matter 1, Appendix 3, para. 2.

<sup>6</sup> See paragraph 2.4 of DTZ report, document EB31

profit is 20% on Gross Development Value. On that basis the developments are judged to be viable. This was confirmed by developer representatives and is supported by the advanced stage reached in the site planning process, especially at Barwell.

**Issue 5 – Whether the policies of the AAP strike the right balance in providing flexibility to allow for changing circumstances whilst ensuring that essential infrastructure to support the SUEs is delivered.**

32. The AAP does not make specific land use allocations within the SUEs. On first reading that is a surprising omission, but the master-planning work is so far advanced in relation to both SUEs, with planning applications either made or about to be made, that the Council's approach is to provide general guidance on what is expected by specific reference to the development frameworks (Figures 4 and 5) subject to policies 6 and 12. In that context such an approach is sound. However, the two policies are negatively phrased and thus not flexible in application. In that regard the plan is not 'positively prepared' and does not truly reflect the NPPF presumption in favour of sustainable development. That is recognised by the Council's revised wording (PCs 30 and 35) which is the same for both policies. Those modifications are required to make the plan sound and both policies are covered by a single recommended main modification. **(MM2)**

33. The key policy to achieve the delivery of the necessary infrastructure to support development is No. 21, although policies 10 (Earl Shilton) and policy 16 (Barwell) also apply to strategic transport infrastructural provision and cross-reference to the Infrastructure Schedule inserted at (unnumbered) page 64 of the plan. The schedule lists the source of funding for each element and an approximate time horizon for delivery.

34. Policy 21 is very generally worded but it has to be recognised that the AAP is intended primarily to set a context for the negotiation of specific contributions towards infrastructural provision under s106 of the Planning Act 1990 and s278 of the Highways Act 1980. It is not necessary to specify by way of policy that any agreement or obligation should meet the "CIL tests"<sup>7</sup> as set out in paragraph 204 of the NPPF because it is national policy which also, as the Council rightly state, could change.

35. It is clearly stated in AAP paragraph 10.2 that the Infrastructure Schedule is 'indicative' although the evidence suggests that the listed schemes comprise those which are needed to directly support the developments, as currently identified. The reference in policies 10 and 16 to contributions towards strategic transport infrastructure needing to be 'in conformity' with the schedule may appear to be

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<sup>7</sup> Regulation 122 of the Community Infrastructure Levy Regulations

inconsistent with the indicative nature of the schedule but the identified transport improvements are essential. It is the costing of the schemes which is indicative, taking account, for example, of on-going discussions on the detailed design of road junctions and other improvements required as a direct result of the development proposals.

36. The Council's approach through policy 21 properly reflects the need to take viability factors into account. It is in recognition of the need to ensure that the totality of the obligations is not of such a scale as to risk the development becoming unviable. It is a fluid situation; the development of the SUEs with the obligations identified in the Infrastructure Schedule of AAP is viable taking account of present and forecast market conditions but there is also sufficient flexibility to take account of future changes, as advised in paragraph 205 of the NPPF.

37. There is justifiable concern within the local community that viability considerations might render undeliverable the regeneration benefits the developments are intended to bring. There must always be a degree of risk in that regard but AAP policy strikes the right balance by putting the onus on the developer to prove that the cost of providing a necessary community benefit would cause the development to become unviable. That is not the situation at present.

38. The Infrastructure Schedule is a key part of the plan in so far as it sets out the whole range of infrastructure and community benefits which are seen to be necessary to achieve a truly sustainable development. The Council have put forward (PC46) changes to the schedule to improve clarity and to include an additional column which, among other things, provides explanations of the basis for costs elements and a more precise indication of obligation requirements. Without such additions the Council's approach would be inadequately justified and thus not sound. A main modification **(MM3)** is recommended to rectify this.

39. The Council's revised Infrastructure Schedule has been consulted upon as proposed MM3. Although the caveat heading the schedule may appear to introduce uncertainty it is an accurate reflection of the reality of negotiation on the scope of s106 agreements which must comply with the guidance set out in paragraph 204 of the NPPF (see paragraph 34 above). The inclusion of a column identifying the key stakeholders and delivery partners makes clear that infrastructure provision will not be achieved solely through developer contributions.

**Issue 6 – a. Whether policy 23 in the AAP relating to existing employment sites is sufficiently clear in its application and b. whether the reduction in employment provision within the SUEs from that envisaged in the Core Strategy would render the developments less sustainable.**

*Clarity of wording of policy 23*

40. The guidance in paragraph 154 of the NPPF is that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the (local) plan. The Council have accepted (PC43) that AAP policy 23 does not fully achieve that requirement in that the categorisation of existing employment sites (categories A, B and C) are not intended to be shown on the Policies Map but are set out in Appendix 5 to the plan. A modification **(MM4)** to the policy is required to make it sound in terms of conformity with national policy. Some of the other wording used in the policy is somewhat imprecise but

not such that a decision-maker would be unclear as to its intent.

*Reduction of employment provision in the SUEs*

41. Core Strategy Policy 2 provides for the allocation of 10 ha. of employment land in the Earl Shilton SUE and CS Policy 3 provides for the allocation of 15 ha. in the Barwell SUE in both cases primarily to support local employment opportunities. There are no specific land use allocations within the SUEs although AAP policies 6 and 12 require the developments to 'generally follow the land uses' within the frameworks provided in Figures 4 and 5.

42. The specific policies applying to the provision of new employment land within the SUEs are policy 8 for Earl Shilton and policy 14 for Barwell. In both policies the total area to be provided for employment purposes has been reduced significantly from the CS figure to 5.4 ha. (-46%) in Earl Shilton and to 6.2 ha. (-58.7%) in Barwell. The justification for this is set out in the plan text stating that the revised employment land requirement is the result of an Employment Land Assessment (ELA) undertaken in 2010 by King Sturge (*Doc. EB18*) whereas the evidence base for the Core Strategy figure was a PACEC Leicestershire countywide study in 2008. (*EB20(1)*)

43. A very important aspect of sustainability is to design development and to plan land uses such as to minimise the need to travel, including providing employment in locations which will allow residents to work close to home should they so choose<sup>8</sup> and encourage walking, cycling and the use of public transport. A suggestion that just 25% of journeys to work within the SUEs need be by private car appears not to have been carried forward in policy.<sup>9</sup>

44. Nevertheless, there appears to be no clear evidential basis for the CS figure of 25 ha. of employment land in the two SUEs together<sup>10</sup> which is a similar figure to that suggested in the PACEC study for other SUEs in Leicestershire. The Council commissioned the ELA specifically to assess the need for employment land in Earl Shilton and Barwell and to review the conclusions of the earlier PACEC report. Importantly, it sets out the conclusions of a draft report by Experian which links employment need with population growth looking at the particular demographic characteristics of similar larger scale residential development elsewhere. Taking account of other local factors, the identified 'employment land need' was 7.1 ha. for industry and warehousing at Barwell and 4.1 ha. at Earl Shilton plus 1.2 ha. for offices.<sup>11</sup> In the face of that evidence, so long as the provision of employment land

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<sup>8</sup> Core Strategy para. 4.19 (Doc. AAP 05)

<sup>9</sup> This derives from a 2008 Stakeholder's Workshop held as part of the PACEC Leicestershire HMA Employment Land Study by PACEC (para. 7.6.8 of Doc. EB20)

<sup>10</sup> Paragraph 3.3.29 Doc. EB18

<sup>11</sup> Doc. EB18, Table 11, para. 9.2.13, page 57

through the AAP is of that order, the overall sustainability of the proposed SUEs would be maintained.

45. There has, of course, been a significant shift in the market since the PACEC study. The King Sturge report assesses how much employment land might realistically be delivered over the plan period taking account of market factors. On that basis, the recommended provision is for a maximum of 6.5 ha. for industry/warehousing in Barwell and 4.9 ha. in Earl Shilton with an additional 0.5 ha. for an 'office courtyard' scheme, 5.4 ha. in total.

46. The actual areas of land within the SUEs to be provided for employment uses have been refined by the master-planning work. This suggests a minimum provision at Barwell of 6.2 ha. and 4.5 ha. at Earl Shilton plus up to 0.5 ha. for offices. There is an inconsistency between the wording of policy 8 for Earl Shilton with that used in policy 14 for Barwell and, for the plan to be sound, policy 8 requires modification.

47. In view of the sustainability benefit of local employment every opportunity needs to be taken to increase provision. It is a sound approach to set a minimum and provides flexibility to the future and it is recommended as a main modification **(MM5)**. The Council have agreed that there is no clear planning justification for a limit on the area for office (B1) use at Earl Shilton even should there be no perceived market demand at present. I accept that the consultative wording of MM5, derived from the Council's PC31, lacked clarity and a revised wording is now recommended, as suggested by AMEC.

#### **Issue 7 – whether the proposals in the plan will provide sufficient support to retail businesses in the centres of Barwell and Earl Shilton.**

48. As with many other district shopping centres, the retail offer in both Barwell and Earl Shilton has declined in recent years. An important aspect in the justification for the development of the SUEs, as stated in the Core Strategy, is the regeneration of the existing centres including improving the retail offer.

49. Policies 9 and 15 in the AAP require 'local convenience retail provision' in each of the new neighbourhood centres within the SUEs. No floor space is specified although the total area for each centre is stated in the plan text and is identified in the development framework diagrams. This provides flexibility for negotiation on precise design criteria at planning application stage. An important qualification within the policies is that any retail provision in the neighbourhood centre(s) 'is complementary to, but does not detract from the ... District Centre'. Such a limitation is justified by the conclusions of an impact assessment (*Doc. EB15*) and is in line guidance in paragraph 23 of the NPPF. It is sound.

50. No timescale is given in the plan for the provision of the new centres although the Barwell consortium indicated a commitment to early delivery of the community hub, including a new primary school, and early marketing of the retail unit. Clearly there will need to be a resident population before any retail provision will become viable.

51. As stated in policy, both Barwell and Earl Shilton function as district centres within the retail hierarchy. They are subordinate to the main centre in Hinckley and, further away, the higher order centres of Nuneaton and Leicester. Indeed, it is specifically stated in AAP Spatial Objective 5 that 'the centres' (of Barwell and Earl Shilton) 'will continue to support the role of Hinckley as a sub-regional centre'. In turn,



the SUEs will help support the existing centres but there will always be 'leakage' to other centres. The Woodlands Garden Centre north of Stapleton, which provides a surprisingly wide retail range beyond garden related products, does not sit comfortably with the hierarchical model. The impact assessment identifies the potential increase in footfall in the centres as a result of the increase in population<sup>12</sup> in the order of 23% in Earl Shilton over 10 years<sup>13</sup> and 31% in the same time period in Barwell. The study also shows a reasonable level of confidence about growth prospects amongst local retailers.

52. There are proposals in the plan for improved car parking in the centres but the key is in the provision of easy and safe routes to the centres from the SUEs by foot, cycle and by enhanced bus services. AAP policies 11 and 17 set the criteria governing the form of the sustainable transport links required and they are identified in the development framework diagrams. Much will depend upon their implementation through planning applications including s106 agreements, the delivery of which is largely in the hands of the Council. The plan sets the context. There may be doubts about the extent to which the new residents will, indeed, support the existing centres rather than shop elsewhere but the retail impact assessment work is robust and represents a reasonable estimate of the support the new developments will bring to existing retail businesses.

### **Issue 8 – whether the plan provides clear support for town centre regeneration including improvements to the public realm.**

53. As identified in paragraph 4.18 of the Core Strategy the choice of Earl Shilton and Barwell for the location of major developments to meet the wider needs of Hinckley and Bosworth Borough was strongly influenced by the need for regeneration of the existing centres. It is restated in paragraph 7.1 of the AAP as providing 'a catalyst' for regeneration. Detailed proposals are set out in Appendices 3 and 4 of the plan but policy 19 does not clearly state how planning applications for the SUE developments will be channelled towards achieving regeneration objectives. The policy is very general and includes words such as 'support' 'encourage' and 'seek'. It is not compliant with NPPF guidance in that regard.

54. The Council have accepted that policy 19 needs revision to strengthen its intent qualified by additional supporting text making clear how the regeneration benefits and public realm improvements detailed in the appendices are to be delivered. This is put forward as PC52. The revised policy includes reference to Appendix 1 and clarifies that this is intended as 'Design **Guidance**' (my emphasis) to which proposals should 'have regard'. Although such guidance might have been published separately as a Supplementary Planning Document its inclusion as an appendix to the AAP is not

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<sup>12</sup> Section 5.1.3 of document EB15

<sup>13</sup> This is based on an assumed 1650 dwellings in the SUE by 2026

unsound provided its status is clear. It is always open to the Council to allow variation from the details in the appendices subject to public consultation. I consider that PC52 is necessary in its entirety to ensure that the plan is effective and thus sound. It is recommended as **MM6**.

**Issue 9 – whether the plan makes adequate provision for the enhancement to community policing which would be required as the direct result of the proposed new housing developments and the resultant population increase.**

55. It is stated in paragraph 69 of the NPPF that plan policies should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. That guidance is primarily directed at the design of outdoor spaces such that people feel safe in using them. In part that includes their easy surveillance and hence policing. Good design can thus directly reduce crime and policing needs. Furthermore, the last bullet point in paragraph 17 of the NPPF, which sets out core planning principles, states that strategies should deliver sufficient community facilities and services to meet local needs.

56. During plan preparation the Council approached a wide variety of service providers to ascertain what additional facilities would be required to service the increased population. The results of the consultations have informed the content of the Infrastructure Schedule and thus the total cost of benefits which are largely, although not entirely, to be obtained from developers through s106 agreements.

57. However, the Leicestershire Police have made representation that the wording of policies 9 and 15 which refer to 'facilities for neighbourhood policing' in the proposed Neighbourhood Centres does not adequately reflect the true nature of the additional police facilities required. In response the Council have put forward (PC38) amendments to two policies to widen the scope of any developer contributions which may be required to meet requirements for the policing of the SUEs. That is a flexible approach which, although it leaves detailed requirements to negotiation at the planning application stage, is in the spirit of NPPF guidance and reflects the approach taken in consideration of the Barwell application. PCs 39 and 41 would introduce additional wording to paragraphs 5.18 and 6.16 to clarify the application of policies 9 and 15 respectively. Together with PC38, the Council's proposed changes are recommended as a modification (**MM7**) to ensure compliance with the NPPF and to make the plan sound in terms of its effectiveness.

58. There is a significant difference between the indicative sum included in the Infrastructure Schedule of the submitted plan as required under the heading

'Community Safety' (total £100,000) and the sum that the police say<sup>14</sup> is required to meet community needs directly relating to the increase in population which would arise from the development (£1.291 m.) There remains an unresolved issue on the compliance with the CIL regulations of certain elements within the total package of police service requirements despite the evidence on this point submitted by the police. The individual items are not detailed in the submitted AAP and negotiation on compliance is more appropriate in the context of a planning application. However, the Council accept that meeting the full police requirement would not render the SUE developments unviable. With a recognition (in the comments column of a revised Infrastructure Schedule) that there will need to be further negotiation of s106 obligations for individual items in the context of planning applications it is more realistic, and hence sound, to include the sums sought by the police within a total for Community Safety Infrastructure of £1,291,486. This has been put forward by the Council in PC46, included in MM3 above. It is not necessary to make specific reference to a requirement to meet CIL requirements in the policy as that applies in any event.

**Issue 10 – whether the detailed proposals of the AAP will effectively deliver the improvements to the strategic transport infrastructure identified in the Core Strategy in order to successfully mitigate the traffic impact of the development of the SUEs.**

*Highway Improvements*

59. A major improvement scheme is programmed for the Longshoot and Dodwells junctions with the A47 on the A5 trunk road. Initially linked to the development of the MIRA site it is now part of the "pinch point plus" programme. The Highways Agency confirmed that work on the scheme is to start in September 2014 for 23 weeks and that funding is secured. In addition further improvement works are required at the A5 junctions specifically to accommodate the additional traffic flows resulting from the proposed developments at Barwell and Earl Shilton. There has been co-operative working between neighbouring Planning and Highway authorities to take account of planned developments in the wider area.<sup>15</sup>

60. Indicative costings for the further improvements are shown in the Infrastructure Schedule. Developer contributions to necessary highway works are secured through AAP policies 10 and 16. Detailed requirements for the Barwell development have been discussed and agreed with the Highways Agency but negotiations are less far advanced for Earl Shilton. Although the Highways Agency did not yet have the necessary information to be able to assess fully the impact of the Earl Shilton development this was seen as a matter of detail which is the

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<sup>14</sup> Supplementary Statement 11

<sup>15</sup> See paragraphs 7 and 8 of this report with reference to the Duty to Co-operate.

subject of discussion in the context of the imminent planning application<sup>16</sup> and does not present a significant difficulty.

61. Other highway improvements include the A47 Hinckley North Perimeter Road and junction improvements to include junction improvements and bus priority measures. All of the programmed improvements are set out in section 10 of the Strategic Transport Assessment (STA) (*Doc. EB16*) which supports the AAP. The schemes are also listed in the Infrastructure Schedule of the plan itself.

62. The deliverability of the plan proposals and the sustainability of the proposed developments depends upon the full package of transport improvement measures set out in the Infrastructure Schedule. That is part of the plan and a key element within the Implementation section. As such it is not open to the Council to make significant amendment to the measures to be introduced except by bringing forward an alteration to the statutory plan. It is certainly not appropriate for the County Highway Authority to alter the list of approved schemes as the wording in AAP policies 10 and 16 appears to suggest. The Highway Authority (or, indeed, the Highways Agency) is a third party. That element of the plan policies is not sound for that reason. The Council have put forward a change (PC50) to state only that the schemes will be in accordance with Highway Authority specification but it is unnecessary to state that in a policy because it will always be the case. Therefore, for the plan to be sound, the reference to the Highway Authority should be omitted altogether. **(MM8)**

#### *Effect on the rural road network*

63. The modelling methodology adopted for the testing of future traffic flows from the SUEs and the capacity of the local road network is fully set out in the STA. The main model used, the Leicester and Leicestershire Integrated Transport Model (LLITM) is a comprehensive strategic model which takes full account of planned housing and employment development. A second tier Paramics model has been used to check junction capacities.

64. Residents and several Parish Councils for villages to the north of Barwell challenged the robustness of the LLITM putting forward evidence of traffic counts carried out in Stoke Golding village which show very much higher flows (one almost five times the level) than the 2011 baseline flow used for the model. Even so, the variation from the baseline is compliant with WebTAG modelling criteria. Allowances also need to be made for the time of day and year. Nevertheless, the concern of local residents about the environmental effects of 'rat-running' through the villages is understandable. There are also expressions of 'incredulity' with regard to the model prediction for traffic turning right from the Barwell SUE to use

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<sup>16</sup> See paragraph 25 of this report

the A447 north through the double bend at Stapleton to gain access to Leicester along the rural road through Kirkby Mallory and Peckleton.

65. The validity of any modelling process must necessarily depend upon the data inputs. In this case, an important element is that of future land use patterns and modal split. A very strong emphasis is placed on the need to prioritise the use of sustainable transport modes which are planned to reduce reliance on the private motor car over time. There is no sound basis for a simple grossing up of existing measured vehicular flows without taking account of the plan strategy to improve the strategic A47/A5 corridor or to recognise the forecast shift in movement patterns away from Leicester towards Nuneaton/Coventry. It is also significant that the urban developments at Barwell and Earl Shilton are expected to support and be dependent upon employment and service opportunities within Hinckley itself.

66. The evidence of the individual traffic counts shows that there is a propensity for existing residents of the Barwell area in particular to make use of rural roads to bypass traffic congestion 'hotspots'. It is a problem which is specifically identified in paragraph 9.26 of the STA and it is acknowledged that the additional traffic generated by the SUEs will 'exacerbate the situation'. However, the mitigation strategy is aimed at removing congestion at key junctions. It is a factor which has been taken into account in the design of improvements at the Dodwells junction where specific bus priority measures are no longer proposed<sup>17</sup>.

67. The AAP is sound in the sense that it advances a package of sustainable transport measures, including road improvements, which have been identified as directly required to service the housing developments themselves and directly resulting from them. It is only on that basis that the Council would be justified in seeking developer contributions for such infrastructure by way of obligations under s106 of the Town and Country Planning Act 1990.

68. The package of highway improvement measures identified in the STA and brought forward through the Infrastructure Schedule in the AAP is to be implemented largely through developer contributions. Together with other sustainable transport measures, as discussed below, it should successfully mitigate the impact of additional traffic flows from the SUEs on the road network. It is key to the strategy that a reduction in congestion will be of benefit to all road users and will encourage use of the principal road network in preference to the rural lanes. In the circumstances, there is no clear justification for the inclusion of additional physical measures, including amendments to junction designs, to reduce traffic on the rural lanes within the package to be required of developers and included in the Infrastructure Schedule of the AAP. As stated by the Council<sup>18</sup> the effect of the

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<sup>17</sup> HBBC Supplementary Statement for Matter 4, paragraphs 2.1.17 and 18.

<sup>18</sup> HBBC Supplementary Statement for Matter 4, paragraphs 2.2.21 and 22.

developments on rural roads will need to be monitored and further measures agreed and implemented should traffic flows through the villages increase to an unacceptable level. That is outside the AAP process.

**Issue 11 – whether the plan is sufficiently clear on the nature of the proposed links from within the SUE to the centre of Earl Shilton.**

69. The approach to the provision of access into and through the SUEs and connectivity to the existing centres is set out in the plan under policies 10 and 11 for Earl Shilton and 16 and 17 for Barwell. Importantly, the aim is to ensure that permeability is achieved without encouraging short distance car journeys or unwanted through traffic. The development frameworks in Figures 4 and 5 show the access points and linkages in map form.

70. Much of the detail including the design of the links is left to the planning application stage which is well advanced for Barwell. However, uncertainties remain over the nature of proposals for Earl Shilton. Clarification of policy 10 would be achieved through PCs 33 and 34, however the references in policy 10 and paragraph 5.37 to the future use of Mill Lane appear to suggest that the lane could be open to vehicular traffic contrary to the symbol in Figure 4 which suggests cycle and pedestrian use only.

71. During the discussion on Matter 4 the Council suggested that the use of Mill Lane would be 'restricted' which would mean that 'extraneous through traffic' would be prevented either by physical measures or traffic regulation. I heard that it may be necessary for the efficient operation of the local bus service for Mill Lane to act as a bus route. That option should remain available. The route is not suitable for general traffic owing to the proximity of a school but it has the character of a residential road in that section where restriction through traffic regulation would be the norm. The word 'extraneous' appears to have little practical meaning.

72. Whether or not Mill Lane is deemed suitable in the interim, prior to the completion of the new link to Clicker's Way, to accommodate vehicular traffic from the 'phase one' site on the north side of Mill Lane is a matter for consideration in the determination of any planning application for that site. The policy should not preclude that possibility, but it is clear that once the new link is complete there must be some sort of barrier to prevent general vehicular use of Mill Lane to gain access to the town centre. The revised wording (PC49) suggested by the Council for paragraph 5.37 makes that clear but for the plan to be sound in the sense of its effectiveness the wording of the policy needs to be strengthened by the insertion of 'restricted' to qualify the use of Mill Lane. However, the evidence base in the form of the STA does not support a restriction to pedestrian and cycle use only and it would appear that the symbol on Figure 4 is not correct in that regard. A main modification is required to both the policy and the supporting text. **(MM9)**

**Issue 12 – whether the plan includes adequate provision to secure cycle links between residential and employment areas and Hinckley.**

73. The second bullet point in Core Strategy policy 5 states that the cycle routes to be implemented are identified in the Hinckley Cycle Network Plan (HCP) with priority given to strategic routes between Hinckley, Burbage, Barwell and Earl Shilton. Reference is also made in CS policies 2 and 3 to the provision of 'safe, high quality cycle routes'. Section of the STA prepared for the AAP sets out a cycle strategy.

74. In view of the acknowledged importance of cycle routes to the sustainability of the urban extensions and their close functional relationship with Hinckley it is, perhaps, surprising that there is no indication of those routes on the policies map. In particular, policies 11 and 17 clearly identify the requirement for cycle routes between residential and employment areas and to recreational facilities, between the SUEs and to Hinckley.

75. However, given the nature and function of the AAP, with its tightly drawn plan boundary, I accept that there is little or no scope for the identification on the policies map of routes to/from Hinckley. The HCP is not part of the development plan and, therefore, it should be borne in mind that the land-use implications of any proposed cycle routes should be identified in the local plan in due course.

Their quality is important to encourage future use especially, given the relatively short distances, for cycling to work at times bus services do not operate. A full package of sustainable transport measures is put forward in the latest County Local Transport Plan (LTP3).

76. Looking at the plan as whole, footpaths and cycleways are identified on the development framework diagrams (Figures 4 and 5) with their delivery secured through policies 6 and 12. There are also whole sections of text for each SUE (paras. 5.38-5.45 and 6.41-6.47) accompanying policies 11 and 17 which set out the requirements for walking and cycling routes in considerable detail. The importance of this to the sustainability of the developments is not in doubt. The plan is sound in that regard.

**Issue 13 – whether the development programme and phasing is likely to achieve the early completion of the spine road(s) in order to enable the provision of good bus services within easy walking distance of people's homes.**

77. Barwell and Earl Shilton are relatively well served at present by strategic bus services which run between Leicester and Hinckley and on towards Nuneaton and Coventry. There are also more local services running less frequently and indirectly serving residential areas of Hinckley as well Barwell and Earl Shilton.

78. Section 4 of the STA provides detail on the proposed bus strategy and that is summarised in paragraphs 4.15-4.18 of the AAP headed 'Public Transport' although reference is made in paragraph 4.25 to it being a Public Transport Strategy. The Council's suggested amendments (PCs 37 and 48) to those paragraphs are for clarification of the purposes of the bus strategy. This involves enhancements and re-routing of the existing services and recognition that some subsidies will be required in the early years of the developments funded by s106 contributions (included in the Infrastructure Schedule). Despite the emphasis given in Core Strategy Policy 5 to the particular need to improve links to Hinckley Railway Station there is no reference to that either in the STA or in the AAP. As nothing has been done to progress the re-opening of Elmesthorpe station on the Birmingham-Nuneaton-Leicester railway line the need for improved connectivity between the SUEs and Hinckley station is a matter which requires further consideration by the County Council as a transport authority. It is not so critical as to render the AAP unsound but would enhance the sustainability of the proposals.

79. It is specifically stated in paragraph 4.9 of the STA that the proposed (bus) service amendments will need to be established early on in the development (at least by the 50<sup>th</sup> dwelling) in order to help develop modal shift behaviour patterns. This is reflected in paragraph 4.18 of the AAP. Policies 10 and 16 require the



construction of a spine road suitable for bus operation but there is no policy requirement for early completion of that road, rather it is stated in the policies that timings of delivery of the (road) improvements will be negotiated at planning application stage. That will need to take account of viability considerations.

80. The Barwell permission when issued will include a condition (no. 4)<sup>19</sup> which requires a phasing programme specifying the scope and timing of major internal infrastructure and the delivery of public transport including the location of bus stops 'within a maximum 400m. walking distance of each dwelling'. A further condition (no. 25) requires the submission of a public transport scheme. Thus, the Council will be in a position to consider the effectiveness of any proposals for bus provision within the developments and to reject any unsatisfactory proposals.

81. The development consortia provided preliminary phasing information at the hearing. There is recognition of the importance of the early completion of the spine roads and the Barwell consortium have stated that the first phase development for each landowner is along the spine road. The Earl Shilton consortium have shown that pedestrian links to existing services can be provided within the 400 m. walking distance.

82. Taking account of the advanced position with regard to the submission and determination of planning applications and the control to be exercised by the Council through planning conditions, the lack of a clear policy direction on phasing within the AAP to ensure the early completion of the spine roads becomes less critical to sustainable transport provision. It is a weakness of the plan but, in the circumstances, is not such as to make it unsound.

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<sup>19</sup> See Document BPA1

## Assessment of Legal Compliance

83. My examination of the compliance of the plan with the legal requirements is summarised in the table below.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The AAP is identified within the approved LDS (December 2013) which sets out an expected adoption date of July 2014. Submission was in December 2013 as stated. The role of the AAP is as stated although the title of the submitted document is the Earl Shilton and Barwell AAP, not the other way around as listed in section 4.2 of the LDS. That is of no great consequence and the plan is broadly compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in November 2006 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes (MM)
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	The Council have submitted a Habitats Regulations Assessment Screening Report (Doc. EB24) in which it is confirmed that there are no European sites within the plan area and that an Appropriate Assessment is not necessary.
National Policy	The Local Plan complies with national policy except where indicated and modifications are recommended.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS in the form of the Hinckley and Bosworth Community Plan.
Public Sector Equality Duty (PSED)	The Council have demonstrated that they have complied with the Duty in compiling the plan.
2004 Act (as amended) and 2012 Regulations.	The Local Plan complies with the Act and Regulations (see below).

### Compliance with the 2012 Regulations

#### *Regulation 8*

84. The submitted plan does not comply with Regulation 8(5) which requires that where a plan contains a policy which is intended to supersede another policy in the adopted development plan it must state that fact and identify the superseded policy. The Council have accepted the omission and put forward, as PC25, a new Appendix 7 to the plan which lists all of the policies in the AAP which are intended to supersede those in the adopted local plan. The inclusion of that Appendix is recommended to meet the requirements of Regulation 8. **(MM10)**

### *Regulation 19*

85. Regulation 19(a) requires copies of a 'statement of the representations procedure' to be made available with the published plan in accordance with Regulation 35. What should comprise the 'statement of representations procedure' is defined under Regulation 17.

**86.** The Council have supplied copies of the notices published in the Public Notices columns of local newspapers, although that is not now a requirement of the Regulations. This has, as a heading, 'Statement of representations procedure' and under 'Geographical coverage' states 'The plan relates to the settlements of Earl Shilton and Barwell'. On the other hand, the entry in the LDS simply states 'Barwell and Earl Shilton', which might relate to the parish areas. In the plan itself, various references to 'the settlements' clearly relate to the existing built-up areas which are to be extended. That is confusing and it only became clear during the examination that the red line settlement boundary as shown on Figure 3 was intended to be the plan boundary. It led to at least one representation relating to a site outside but abutting the plan boundary. The reference to the Statement in the press notices means that the plan complies with the Regulation but the ambiguity in the wording would have been best avoided.

### *Regulation 22*

87. Regulation 22(1)(b) requires that a 'submission policies map' should be submitted to the Secretary of State with the plan 'if the adoption of the local plan would result in changes to the adopted policies map'. The term 'submission policies map' is defined in the interpretation section under Regulation 2(1)(l) as accompanying a local plan. That is because, by virtue of Regulation 5(1)(b) it is a 'local development document' but is not a 'local plan' under Regulation 6. It should be kept separate from the plan itself and not included within it as is Figure 3 of the submitted AAP which is referred to erroneously as the 'plan proposals map'<sup>20</sup>. The regulations do not preclude the inclusion of more information on the submission policies map than is strictly necessary.

88. Upon adoption of a local plan the 'adopted policies map' will, in accordance with Regulation 9, be amended to illustrate geographically the policies in what will then be the adopted development plan. It is not, therefore, correct to include the policies map within the plan itself. To accord with the Regulations, Figure 3 in the submitted plan must be deleted. **(MM11)**

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<sup>20</sup> The Council intend (PC26) to replace all references to 'Proposals Map' by 'Policies Map'.

## **Overall Conclusion and Recommendation**

**89. The plan has a number of deficiencies in relation to soundness and legal compliance for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the Act. These deficiencies have been explored in the issues set out above.**

**90. The Council has requested that I recommend main modifications to make the plan sound and legally compliant and capable of adoption. I conclude that, with the recommended main modifications set out in the Annex to this report, the Earl Shilton and Barwell Area Action Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.**

*John R Mattocks*

Inspector

This report is accompanied by the Annex containing the Main Modifications

## EARL SHILTON AND BARWELL AAP – SCHEDULE OF INSPECTOR’S RECOMMENDED MAIN MODIFICATIONS

The following schedule details the Main Modifications (MM) which the Inspector proposes to recommend in order to make the plan sound. Where additional or replacement wording is recommended it is shown in **bold**.

Main Modification No.	Paragraph / Policy Number in Plan	Proposed Modification
MM1	Development Trajectory (Para.10.5)	Delete this paragraph and the housing trajectory.
MM2	Policies 6 and 12	Modify the second sentence of Policies 6 and 12 to read:-  <b>Deviation from the development framework will be permitted where proposals would not prejudice the achievement of the overall requirements of the policies in this Area Action Plan and Local Plan (2006-2026) taken as a whole.</b>
MM3	Infrastructure Schedule (page 64)	Replace the Infrastructure Schedule by an updated version as set out at the end of this list of main modifications, (Appendix 1).

Main Modification No.	Paragraph / Policy Number in Plan	Proposed Modification
MM4	Policy 23	<p>Substitute the following wording for the first two paragraphs of the Policy:-</p> <p><b>Existing employment sites categorised as A, B or C sites are identified in Appendix 5 and delineated on the Policies Map.</b></p> <p><b><u>Category A Sites</u></b></p> <p><b>The Council will seek to retain sites classified as category A sites in their entirety, for B1, B2 and B8 employment uses.</b></p>
MM5	Policy 8	<p>Modify the first sentence of Policy 8 to read:-</p> <p><b>The development will provide for a minimum of 4.5ha of employment land, predominantly for industrial and warehousing use within classes B2 and B8, of which at least 0.5ha shall be for B1 use classes.</b></p>
MM6	Policy 19 and supporting text.	<p>Delete Policy 19 and replace by a new policy to read as follows:</p> <p><b>To enable the regeneration of the District Centres of Earl Shilton and Barwell, development proposals within the settlement boundary (as defined on the Policies Map) shall be permitted which:</b></p> <ul style="list-style-type: none"> <li>• <b>Contribute to the enhancement of the public realm, through physical development and / or developer contributions which conform to the</b></li> </ul>

		<p>respective public realm strategies in Appendix 4; or</p> <ul style="list-style-type: none"> <li>• <b>Contribute to the successful regeneration of the opportunity sites identified in Appendix 3; or</b></li> <li>• <b>Increase and improve the range of retail provision of the district centres in accordance with Policy 26 (Vitality of District, Local and Neighbourhood Centres).</b></li> </ul> <p><b>All proposals will be required to conform to policies contained in the Local Plan and have regard to the design guidance in Appendix 1.</b></p> <p><b>Where appropriate, contributions towards improvements to the public realm which conform with the respective public realm strategies in Appendix 4 will be required from development within:</b></p> <ul style="list-style-type: none"> <li>• <b>Earl Shilton SUE towards Earl Shilton District Centre; and Barwell SUE towards Barwell District Centre.</b></li> </ul> <p>Insert new text before Policy 19 in explanation and justification of that policy, as follows:-</p> <p><b>7.12 The AAP provides a holistic framework for planning for the future of the settlements with the delivery of the SUEs acting as a catalyst for the successful regeneration of the existing settlements of Earl Shilton and Barwell, notably the District Centres.</b></p> <p><b>7.13 Appendix 3 of this AAP identifies a number of small-scale but important redevelopment opportunities which can play an important part in the wider public realm improvements to the district centres. Appendix 4 provides two public realm strategies for the district</b></p>
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		<p>centres of Earl Shilton and Barwell, identifying key existing issues, some opportunities and design principles for improvements to the public realm.</p> <p><b>7.14</b> Regeneration requires a pro-active approach from a number of partner organisations and stakeholders such as Hinckley &amp; Bosworth Borough Council; Leicestershire County Council, Barwell Parish Council, Earl Shilton Town Council, partnership groups and local businesses. A number of initiatives can be delivered and promoted by the various stakeholders which go beyond the role of the AAP as a land use plan, for example:</p> <ul style="list-style-type: none"> <li>• promoting the retail, services and leisure opportunities that are available in the District Centres</li> <li>• improving perceptions of the District Centres through ‘Place Branding’</li> <li>• pro-actively seeking funding opportunities which can contribute towards environmental improvements including those to enhance the public realm.</li> </ul> <p><b>7.15</b> Policy 19 favourably considers proposals within the settlement centres which realise the opportunities identified in Appendix 3, contribute towards the physical improvements to the public realm, increase the retail offering within the district centres or utilise the existing vacant retail premises in accordance with Policy 26 (Vitalising District, Local and Neighbourhood Centres).</p>
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MM7	<p>Policies 9 (fourth bullet point) and 15 (fifth bullet point)</p> <p>Paragraph 5.18 (fourth sentence) and paragraph 6.16 (final sentence)</p>	<p>Delete the wording after the requisite bullet point in each policy as substitute the following wording:-</p> <p><b>Facilities for the policing of the SUE neighbourhood, or alternatively where appropriate, through equivalent developer contributions towards the provision of facilities for the policing of the SUE neighbourhood.</b></p> <p>Delete the text in the requisite sentences and substitute the following new wording:-</p> <p><b>The Neighbourhood Centre could also accommodate facilities for neighbourhood policing however it is recognised that the provision for facilities could be more appropriately delivered at the existing Neighbourhood Policing base at the George Ward Centre.</b></p>
MM8	Policies 10 and 16, second main paragraph	In both policies delete the words 'or as approved by the Highways Authority' from the end of the second main paragraph.

MM9	Policy 10 and paragraph 5.37.	<p>Amend the wording in the second bullet point of Policy 10 to refer to ‘the <b>restricted use</b> of Mill Lane’.</p> <p>Delete paragraph 5.37 and replace by the following:-</p> <p><b>Two further accesses are proposed at Mill Lane and Astley Road to link the SUE to the existing settlement. The design of these connections and the internal road network will need to ensure that through traffic is discouraged. This objective may be achieved through physical measures to prevent or deter movement for through traffic or by the introduction of appropriate traffic regulation orders to limit use to access purposes only.</b></p>
MM10	New Appendix 7	<p>Insert a table (overleaf) which identifies which of the saved policies in the adopted Hinckley and Bosworth Local Plan (2001) will be superseded by policies in the Area Action Plan as they relate to the settlements of Earl Shilton and Barwell only.</p>
MM11	Figure 3: Submission Policies Map	Delete Figure 3

**APPENDIX 7: SAVED LOCAL PLAN (2001) POLICIES TO BE REPLACED BY POLICIES IN THE EARL SHILTON**

Existing Local Plan Policy (2001)		Replacement Policy in the Earl Shilton & Barwell Area Action Plan (2006 - 2026)	
RES1	Residential Proposals	ESBAAP Policy 1	Sustainable Urban Extension (SUE)
		ESBAAP Policy 6	Earl Shilton Urban Extension
		ESBAAP Policy 7	Housing in Earl Shilton Urban Extension
		ESBAAP Policy 12	Barwell Urban Extension
		ESBAAP Policy 13	Housing in Barwell Urban Extension
EMP1	Existing Employment Sites	ESBAAP Policy 23	Existing Employment Sites
EMP3	Land for Employment Development	ESBAAP Policy 8	Employment in Earl Shilton Urban Extension
		ESBAAP Policy 14	Employment in Barwell Urban Extension
BE1	Design and Siting of Development	ESBAAP Policy 22	Development and Design
NE12	Landscaping Schemes	ESBAAP Policy 22	Development and Design
T3	New Development and Public Transport	ESBAAP Policy 10	General Highways Provision for Earl Shilton Urban Extension
		ESBAAP Policy 16	General Highways for Barwell Urban Extension
		ESBAAP Policy 21	Infrastructure and Delivery
T9	Facilities for Cyclists and Pedestrians	ESBAAP Policy 11	Walking and Cycling in Earl Shilton Urban Extension
		ESBAAP Policy 17	Walking and Cycling in Barwell Urban Extension

Existing Local Plan Policy (2001)		Replacement Policy in the Earl Shilton & Barwell Area Action Plan (2006 - 2026)	
RETAIL 8	Change from Retail Use Within Local Centres	ESBAAP Policy 26	Vitalising District, Local and Neighbourhood Centres
RETAIL 9	Proposed Local Shopping Centres	ESBAAP Policy 9	Neighbourhood Centre in Earl Shilton Urban Extension
		ESBAAP Policy 15	Neighbourhood Centre in Barwell Urban Extension
RETAIL 11	Small Local Shops	ESBAAP Policy 22	Development and Design
		ESBAAP Policy 26	Vitalising District, Local and Neighbourhood Centres
RETAIL 12	Use of Upper Floors	ESBAAP Policy 26	Vitalising District, Local and Neighbourhood Centres
RETAIL 13	Conversion of Shops to Residential Use	ESBAAP Policy 26	Vitalising District, Local and Neighbourhood Centres
CF2A	Development on Allocated Educational Sites	ESBAAP Policy 24	Safeguarding Community Facilities
CF2B	Alternative Uses of Existing Educational and Community	ESBAAP Policy 24	Safeguarding Community Facilities
CF5	Cemetery Extensions and New Crematoria in the Urban Area	Part a	Implemented
		ESBAAP Policy 25 (Part b)	Safeguarding Open Space and Recreational Facilities
		Part c	Undeliverable
CF8	Residential Care and Nursing Homes	ESBAAP Policy 22	Development and Design

Appendix 1: Proposed Revised Earl Shilton and Barwell Area Action Plan - Infrastructure Schedule

For the avoidance of doubt, this table identifies the amounts and kinds of developer contributions that service providers have indicated they want the developers to deliver. It does not necessarily present the amounts of developer contributions the Borough Council accepts service providers are entitled to secure, nor does it necessarily present what kinds and amount of contributions developers will be required to deliver.

	Cost Estimate (£)	Cost Estimate Barwell (£)	Cost Estimate Earl Shilton (£)	Key Stakeholders and Delivery Partners	indicative phasing	Additional Comments
<b>Education</b>						
New Barwell SUE Primary School	5,350,000	5,350,000	N/A	Barwell SUE; Leicestershire County Council.	2017	Based on 2015 pupil forecast. Applicants will be required to liaise with HBBC and LCC on the current position in relation to capacity at local schools and appropriate cost multipliers for pupil places in the preparation of S106 agreements.
Capacity improvements to existing Barwell Primary Schools	1,318,792	1,318,792	N/A	Barwell SUE; Leicestershire County Council.	2020	
New Earl Shilton SUE Primary School	5,350,000	N/A	5,350,000	Earl Shilton SUE; Leicestershire County Council.	2016	
Capacity Improvements to existing Secondary and Upper Schools	4,796,210	2,877,726	1,918,484	Barwell SUE; Earl Shilton SUE; Leicestershire County Council.	2016	
<b>Health Facilities</b>						
Barwell SUE GP Surgery requirements (At new Surgery within Village Centre or within SUE)	1,778,400	1,778,400	N/A	Barwell SUE; PCT	2015-2016	Final costs will be subject to the final housing mix.
New Barwell GP Surgery	2,134,080	2,134,080	N/A	Barwell SUE; PCT.	2015-2016	
Earl Shilton GP Surgery (Heath Lane)	975,744	N/A	975,744	Earl Shilton SUE; PCT.	2018	
<b>Play and Open Space</b>						
Provision of play and open space with Barwell SUE	2,469,349	2,469,349	N/A	Barwell SUE; HBBC.	2015-2022	Costs are based on estimates to meet the requirements of the development frameworks. Exact costings to be determined at the planning application stage once the detailed POS provision and mix has been calculated.
Barwell SUE POS maintenance	3,709,560	3,709,560	N/A	Barwell SUE; HBBC; Barwell Parish Council.	2015-2026	Actual maintenance contributions will be calculated against schemes for which planning approval is sought.
Barwell SUE - Pavillion	500,000	500,000	N/A	Barwell SUE; HBBC; Barwell Parish Council.	2020	Estimated costings informed by Sport England's Inspired Facilities Fund calculations. Exact costings will be dependant upon the final mix of sports pitches proposed.
Provision of play and open space within Earl Shilton SUE	1,652,142	N/A	1,652,142	Earl Shilton SUE; HBBC.	2015-2022	Costs are based on estimates to meet the requirements of the development frameworks. Exact costings to be determined at the planning application stage once the detailed POS provision and mix has been calculated.
Earl Shilton SUE POS maintenance	2,285,400	N/A	2,285,400	Earl Shilton SUE; HBBC; Earl Shilton Town Council.	2015-2026	Actual maintenance contributions will be calculated against schemes for which planning approval is sought.
Earl Shilton SUE - Pavillion	500,000	N/A	500,000	Earl Shilton SUE; HBBC; Earl Shilton Town Council.	2020	Estimated costings informed by Sport England's Inspired Facilities Fund calculations. Exact costings will be dependant upon the final mix of sports pitches proposed.
<b>Sport and Leisure Facilities (Indoor)</b>						
Indoor Leisure Facilities to serve the Borough	9,000,000	459,063	327,954	Barwell SUE; Earl Shilton SUE; HBBC.	2015-2023	Final contributions to be sought could vary dependant on the final housing mix proposed.
<b>Libraries</b>						
Barwell Library	83,275	83,275	N/A	Barwell SUE; Leicestershire County Council	2015-2023	Final contributions to be sought could vary dependant on the final housing mix proposed.
Earl Shilton Library	53,296	N/A	53,296	Earl Shilton SUE; Leicestershire County Council	2015-2023	
<b>Civic Amenity Site</b>						
Capacity Improvements at Barwell Recycling and Household Waste Site	192,905	117,625	75,280	Barwell SUE; Earl Shilton SUE; HBBC; Leicestershire County Council.	2014-2022	Final contributions to be sought could vary dependant on the final number of dwellings and the cost multiplier for Leicestershire Civic Amenity contributions rates for the Barwell CA site.
<b>Community Facilities</b>						

Barwell Community Buildings (on-site)	1,102,045	1,102,045	N/A	Barwell SUE; Barwell Parish Council; HBBC	2018	Final costs will be determined by the amount of final housing mix and whether facilities are to be provided on-site and / or improvements are to be made to existing facilities.
Earl Shilton Community Buildings (on-site)	705,035	N/A	705,035	Earl Shilton SUE Earl Shilton Town Council; Earl Shilton Town Centre Partnership; HBBC	2018	
<b>Public Realm</b>						
Barwell District Centre Improvements	1,005,000	1,005,000	N/A	Barwell SUE; Barwell Parish Council	2015-2016	Costings will be finalised once detailed designs are known. Could include the use of developer contributions and other funding sources such as New Homes Bonus.
Earl Shilton District Centre Improvements	1,100,000	N/A	1,100,000	Earl Shilton SUE; Earl Shilton Town Council; Earl Shilton Town Centre Partnership	2015-2022	
<b>Community Safety</b>						
<b>Start up Equipment</b>	<b>141,096</b>	<b>87,479</b>	<b>53,617</b>	Barwell SUE;	2016-2024	Infrastructure items and costings subject to further consideration at the detailed planning application through the negotiation of S106 agreements.
<b>Vehicles</b>	<b>88,614</b>	<b>54,940</b>	<b>33,674</b>	Earl Shilton SUE;	2016-2024	
<b>Additional Radio Capacity</b>	<b>8,505</b>	<b>5,273</b>	<b>3,232</b>	Leicestershire Police.	2016-2024	
<b>Police National Database Capacity</b>	<b>4,455</b>	<b>2,768</b>	<b>1,687</b>		2016-2024	
<b>Additional Phone Handling</b>	<b>9,760</b>	<b>6,051</b>	<b>3,709</b>		2016-2024	
<b>Automated Number Plate Recognition</b>	<b>24,666</b>	<b>16,444</b>	<b>8,222</b>		2016-2024	
<b>Mobile CCTV Deployment</b>	<b>4,500</b>	<b>3,000</b>	<b>1,500</b>		2016-2024	
<b>Additional Premises</b>	<b>1,005,840</b>	<b>623,620</b>	<b>382,220</b>		2016-2024	
<b>Crime Prevention Measures</b>	<b>4,050</b>	<b>2,511</b>	<b>1,539</b>		2016-2024	
<b>Transport</b>						
Improvements to A5 (Longshoot and Dodwells)	2,720,000	1,632,000	1,088,000	Barwell SUE; Earl Shilton SUE; Leicestershire County Council; Highways Agency.	2016-2017	Estimate capital cost of schemes at 2012 prices. Detailed designs and costs of schemes to be determined during the negotiations of S106 agreements.
Improvements to Normandy Way / Ashby Road Traffic Signal Controlled Junction	390,000	195,000	195,000	Barwell SUE	2015-2016	
Improvements to Desford Crossroads	605,000	N/A	605,000	Earl Shilton SUE (and developer contributions from development in adjacent District - total indicative cost of scheme 1,210,000)	2015-2016	
Improvements to Ashby Road / Stapleton Lane to incorporate traffic signal control	500,000	500,000	N/A	Barwell SUE	2015	
Improvements to Ashby Road / Rogue's Lane Junction	500,000	500,000	N/A	Barwell SUE	2015	
Improvements to Rugby Road / Brookside Junction	300,000	180,000	120,000	Barwell SUE, Earl Shilton SUE	2015-2016	
Links to existing urban area for buses (particularly the Railway Station) walking, cycling and local traffic	1,200,000	720,000	480,000	Barwell SUE, Earl Shilton SUE	2015-2016	
Improvements to A47 Hinckley Northern Perimeter Road and Earl Shilton by-pass. This will include at least junction improvements, including bus priority, measures as required but may also include some widening of the route.	2,000,000	1,200,000	800,000	Barwell SUE, Earl Shilton SUE	2015-2020	
Improvements on linkages to Hinckley Town Centre including alterations to signal operation at Leicester Road / New Buildings junction	200,000	120,000	80,000	Barwell SUE, Earl Shilton SUE	2015-2020	
New Public Transport linkages from new developments to Earl Shilton and Barwell and improved public transport linkages between Barwell, Earl Shilton, Hinckley Town Centre and HNPR employment areas (to provide 10 minute local service and real time information at interconnecting bus stop links for Hinckley and Leicester)	2,000,000	1,000,000	1,000,000	Barwell SUE, Earl Shilton SUE	2015-2020	
New pedestrian and cycle linkages from the urban extensions into Barwell and Earl Shilton	300,000	150,000	150,000	Barwell SUE, Earl Shilton SUE	2015-2020	
Traffic calming measures in Barwell and Earl Shilton, traffic calming and traffic management measures along The Common and routes through Earl Shilton and Barwell	500,000	250,000	250,000	Barwell SUE, Earl Shilton SUE	2015-2020	
Improvements to A447 Ashby Road to facilitate introduction of bus priority measures	1,000,000	1,000,000	N/A	Barwell SUE	2015-2020	
<b>Affordable Housing</b>						
Potential developer contribution towards affordable housing in lieu of half of the on-site policy requirement of 20% affordable housing. (Core Strategy Policy 15)	20,345,543	12,405,819	7,939,724	Barwell SUE; Earl Shilton SUE HBBC	2015-2026	Estimated commuted sum based on HBBC Affordable Housing SPD should off-site contributions be negotiated at the planning application stage under the provisions of CS Policy 15: Affordable Housing.

<b>Total</b>	<b>79,913,262</b>	<b>43,559,820</b>	<b>28,140,459</b>			
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