

# **EXAMINATION OF THE AMBER VALLEY BOROUGH LOCAL PLAN**

## **HEARING STATEMENT**

### **MATTER 1 – LEGAL COMPLIANCE, INCLUDING DUTY TO CO-OPERATE**

#### **SUBMISSIONS ON BEHALF OF COACH ROAD DEVELOPMENTS LIMITED**

**REPRESENTOR REFERENCE NUMBER: 178**

**21 MAY 2018**

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## **1. INTRODUCTION**

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- 1.1 This Hearing Statement is submitted on behalf of Coach Road Developments Ltd and responds to questions raised by the Inspector in relation to Matter 1 . Legal Compliance, including Duty to Co-Operate.
- 1.2 This document supplements our previous submission to the Pre-Submission Local Plan consultation in December 2017. Reference will be made in this Hearing Statement to the contents of our previous submissions and updated in response to the updated documents contained in the Examination Library as published by Amber Valley Borough Council (referred to as ~~AVBC~~in the remainder of this Statement).

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## 2 MATTER 1 C. SCOPE OF THE PLAN

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**IV. PARAGRAPH 157 OF THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF) SAYS THAT, CRUCIALLY, LOCAL PLANS SHOULD BE DRAWN UP OVER AN APPROPRIATE TIMESCALE, PREFERABLY A 15 YEAR TIME HORIZON, TAKE ACCOUNT OF LONGER TERM REQUIREMENTS, AND BE KEPT UP TO DATE. DOES THE LOCAL PLAN ACCORD WITH GOVERNMENT POLICY IN THIS RESPECT?**

### RESPONSE

- 2.1 Chapter 3 of our Response to the Pre-Submission Policies outlines our position and this remains unchanged despite the response by the Council in their document [AV\_01]. As the Council are already a significant way through the Plan period it is reasonable to expect that there may be a period where the plan is out of date. To avoid unsustainable development patterns occurring during this time it is advisable that the Council allocate additional safeguarded land which would be released at the point where there is no five-year supply of housing.
- 2.2 Document [AV01] provides no specific timescales which AVBC anticipate the early review of the Local Plan commencing; there is absolutely no reassurance that this is happen within an acceptable timescale. The Council's response merely raises more questions, for example have the Council spoken with the other Derby HMA authorities to establish exactly when their ~~discussions~~ are expected to take place? We remain unconvinced that adopting an early review strategy is the most appropriate way forward and would urge the Inspector to conclude that the Plan period should be drawn up over a 15-year time horizon.
- 2.3 The Framework is clear at Paragraph 157 that Local Plans should preferably be drawn up to cover a 15-year time horizon. The emerging Local Plan covers a Plan period of 2011-2028 which, if adopted in late 2018, would leave 9 to 10 years to run. This is therefore contrary to the guidance in the Framework.
- 2.4 To make the Plan Sound, the Plan period should be lengthened to cover 15 years to reflect policy set out in Paragraph 157 of the Framework, with additional allocations which are deliverable and developable, to be included to meet identified needs.

**V. ON WHAT BASIS IS THE COUNCIL COMMITTED TO AN EARLY REVIEW OF THE LOCAL PLAN, FOLLOWING ADOPTION. WHAT WOULD BE THE TIMESCALE FOR REVIEW?**

**RESPONSE**

- 2.5 The council started consultation work for the review in early 2013, with the initial intention of carrying out a focused revision targeting just housing and jobs figures. But it evolved into a full review after it became apparent that the scale of development required would need new evidence and a refresh of various parts of the plan.
- 2.6 This clearly shows that even an early review can take at least 5 years.
- 2.7 The emerging Local Plan sets out in Appendix 4 that a Local Plan Review may be necessary as a contingency, should monitoring indicate that the Plan is not achieving its objectives. However, there is no formal commitment to a review, no clear trigger mechanisms which would indicate that a review was necessary and no commitment to a timeframe for completion of the review. Many Local Plans contain a commitment to commencing a review, but no specific timeframe for completion. This means that a Council has no specific imperative to do anything but start the review process which may, under this form of policy, never be completed.
- 2.8 Given the situation outlined above in response to Question c(iv), it is considered that a review of the Amber Valley Local Plan is required almost immediately following adoption. This is essential given that the Local Plan, once adopted, would have less than 10 years to run and the Government's preference is at least 15 years.
- 2.9 In order to carry full weight and to ensure that any review is carried out in an effective and efficient manner, the review mechanism should be included within the Plan as a Policy with clearly established start and end points and consequences for not achieving the timeframes identified.
- 2.10 Notwithstanding this, we have grave concerns that the Council will find itself in the same position as many other Councils whereby the Local Plan is adopted and immediately the housing land supply evidence is challenged as part of a Section 78 appeal. In situations where a Council can only demonstrate a marginal position on housing land supply as part of its Local Plan evidence, and subsequently it is found that it cannot demonstrate a 5-year supply of housing land as part of a Section 78 appeal, this can result in an unsettling period for future decision-making on residential schemes in that authority area.
- 2.11 Such a situation occurred recently in Cheshire East. The Cheshire East Local Plan Strategy was adopted on 27 July 2017, however even within 4 months, Inspectors determining Section 78

appeals<sup>1</sup> concluded that it would be both cautious and prudent to regard policies for the supply of housing as not being up-to-date, thus engaging the tilted balance at paragraph 14 of the Framework.

2.12 Having regard to the content of our previous Representations and our submissions in other Matters Statements<sup>2</sup>, it is our position that there is a very real prospect that the Council will find itself in the unenviable position that as soon as the Local Plan is adopted, it could be challenged at a Section 78 appeal on the issue of housing land and the Council find itself in a position where the very recently adopted housing policies are already not being up-to-date.

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<sup>1</sup> APP/R0660/W/17/3166469 - White Moss, Butterson Lane, Barthomley, Crewe, CW1 5UJ  
APP/R0660/W/17/3168917 - Land to the south of Park Road, Willaston, Cheshire  
APP/R0660/W/17/3177499 . Land at Shavington Villa, Rope Lane, Shavington, CW2 5DT

<sup>2</sup> Refer to Matters Statements 2, 3, 4, 5, 12, 13, 14