

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

## **HEARING STATEMENT**

### **MATTER 2 – GENERAL ISSUES**

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

**REPRESENTOR REFERENCE NUMBER: 178**

**21 MAY 2018**

---

## CONTENTS

---

### PAGE NUMBER

1. INTRODUCTION .....	1
2. MATTER 2 b. Coverage and Approach .....	2
3. MATTER 2 d. Evidence Base .....	4

Hourigan Connolly  
7 Swan Square  
15 Swan Street  
Manchester  
M4 5JJ

t/ 0161 300 3476  
e/ [info@houriganconnolly.com](mailto:info@houriganconnolly.com)  
w/ [www.houriganconnolly.com](http://www.houriganconnolly.com)

---

## **1. INTRODUCTION**

---

- 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 2 . General Issues.
- 1.2 This document supplements our previous submissions to the Local Plan, including the Pre-Submission Local Plan consultation in December 2017 and the Draft Local Plan in April 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 the Council.

---

## 2. MATTER 2 B. COVERAGE AND APPROACH

---

### V. WHAT WOULD BE THE IMPACT OF THE PROPOSED HOUSING ALLOCATIONS IN RIPLEY ON THE NEIGHBOURHOOD PLAN WHICH ALLOCATES DIFFERENT SITES FOR DEVELOPMENT?

#### RESPONSE

- 2.1 The impact of the proposed allocations in on the Ripley Neighbourhood Plan (RNP) is that the RNP will be out of date and not in general conformity with the strategic policies contained in the emerging Local Plan.
- 2.2 There are two sites contained in the RNP included within the Council's Large Housing Site Projections 2018/19 - 2022/23 (as at 1 August 2018) as a Neighbourhood Plan Allocations. These comprise sites at Wyatts Way (165 dwellings) and Cemetery Road (20 dwellings) resulting in a total of 185 dwellings to be delivered within years 7-10 of the Plan period. The remaining NP site is that at Nottingham Road, Ripley (129 dwellings) which refers in part to an area known as the Clowes Westerman site and which is subject to a current planning application (Reference AVA/2012/1086) resolved to be approved in 2014. As the Council's Large Housing Site Projections 2018/19 - 2022/23 table confirms, the site still remains subject to the Section 106 legal agreement being engrossed.
- 2.3 As set out in our previous Representation<sup>1</sup> neither of the two remaining sites have been subject to a planning application and there has been no information made publicly available that the land is capable of being developed within the Plan period. It is not disputed that these sites should be included within the land supply, although their delivery should not be relied upon as there has been no application either before or since the RNP was made on 18 November 2015.
- 2.4 The RNP forms part of the Development Plan along with the current Local Plan which was adopted in 2006 and sets out the strategic policies for development in the Borough up to the period 2011. The emerging Local Plan now proposes different sites be allocated. The PPG<sup>2</sup> is clear<sup>3</sup> that where a NP has been brought into force, the LPA<sup>4</sup> should take it into account when preparing the Local Plan strategy and policies and avoid duplicating the policies that are in the NP.

---

<sup>1</sup> The Pre-Submission version December 2017

<sup>2</sup> Planning Practice Guidance

<sup>3</sup> Paragraph: 013 Reference ID: 12-013-2070728

<sup>4</sup> Local Planning Authority

- 2.5 The RNP became part of the statutory Development Plan for Ripley when it was brought into force. It is acknowledged that a NP can be developed before, after or in parallel with a Local Plan, but the law requires that they must be in general conformity with the strategic policies in the adopted Local Plan for the area (and any other strategic policies that form part of the statutory development plan where relevant)<sup>5</sup>. Having regard to this, the RNP is not in general conformity with the emerging Local Plan as it does not follow the general strategy set out within that document. In addition, the rationale for the approach taken in the NP and the evidence to justify that approach<sup>6</sup> is so outdated that it cannot be relied upon to deliver the strategic aims for the area covered. For example, the housing land supply figures evidenced in the RNP are outdated and unreliable and should be given reduced weight in decision-taking (planning applications) or plan-making decisions in Ripley.
- 2.6 It therefore remains that, in its current form, the RNP conflicts with the emerging Local Plan and vice versa, in direct conflict with Paragraph 16 of the Framework which is clear that NP~~s~~ should support the strategic development needs set out in Local Plans. Whilst there is no requirement to review or update a NP, it is submitted that the evidence base which supports the RNP must be reviewed and updated to more accurately reflect the development picture. For example, the housing land supply figures must be updated in order to propose the most appropriate proposed housing allocations in terms of numbers (of proposed units), in sustainable locations and on sites which are deliverable.
- 2.7 In short, a full review of the RNP must be completed now, or at the very least its compliance with the emerging Local Plan must be checked at the earliest opportunity.

---

5 Paragraph: 013 Reference ID: 12-013-2070728

6 Paragraph: 074 Reference ID: 41-074-20140306

---

### **3. MATTER 2 D. EVIDENCE BASE**

---

**I. IS THE EVIDENCE BASE RELATING TO SUCH MATTERS AS HOUSING, EMPLOYMENT, RETAIL AND FLOOD RISK UP-TO-DATE AND RELEVANT?**

**II. ARE THERE ANY IMPORTANT DEVELOPMENTS/CHANGES SINCE THE SUBMISSION OF THE PLAN, FOR INSTANCE IN TERMS OF PLANNING PERMISSIONS/COMPLETIONS? IS THE SHLAA AND SHMA UP-TO-DATE AND ROBUST?**

**IV. HAS SUFFICIENT REGARD BEEN PAID TO INFRASTRUCTURE AND FLOOD RISK? ARE ANY OF THE INFRASTRUCTURE PROVIDERS OR THE ENVIRONMENT AGENCY OPPOSED TO THE PRINCIPLE OF THE DEVELOPMENT OF ANY OF THE ALLOCATED SITES? IF SO, SHOULD THESE BE DELETED FROM THE PLAN?**

**V. HAS THE HIGHWAY AUTHORITY ACCEPTED THAT THE SCALE AND LOCATION OF DEVELOPMENT IN THE PLAN WILL NOT CAUSE SIGNIFICANT PROBLEMS?**

#### **RESPONSE**

- 3.1 The Council has twice recently updated its Housing Land Supply using a base date of 01 April 2018. The most recent documents (AV/04, 05, 06 and 06a) being made available for public view on 14 May 2018, only 7 days before the Hearing Statements are due to be submitted to the Inspector. Notwithstanding our views on the content of those documents, the Council has at least provided its updated position in relation to housing.
- 3.2 There is no such updated information however in relation to employment and the Council continues to rely on their document ED10<sup>7</sup> which is outdated, being completed in August 2016 and based on studies taken place April to July 2016. Given that the Council is proposing the release of Green Belt land to facilitate a strategic mixed-use development at Land north of Denby, which includes for 12 ha of land for business and industrial use, it appears evident that the evidence supporting the emerging Local Plan should include an updated Employment Land Needs Study. Without this, the Local Plan has not been drafted using up-to-date evidence and cannot be found sound.
- 3.3 Despite the Council's Updated document AV/04 (Explanatory Note in Respect of Response to Question 31 of Inspector's Initial Questions 14 May 2018), there is nothing within that document

---

<sup>7</sup> Amber Valley Employment Land Needs Study 2016

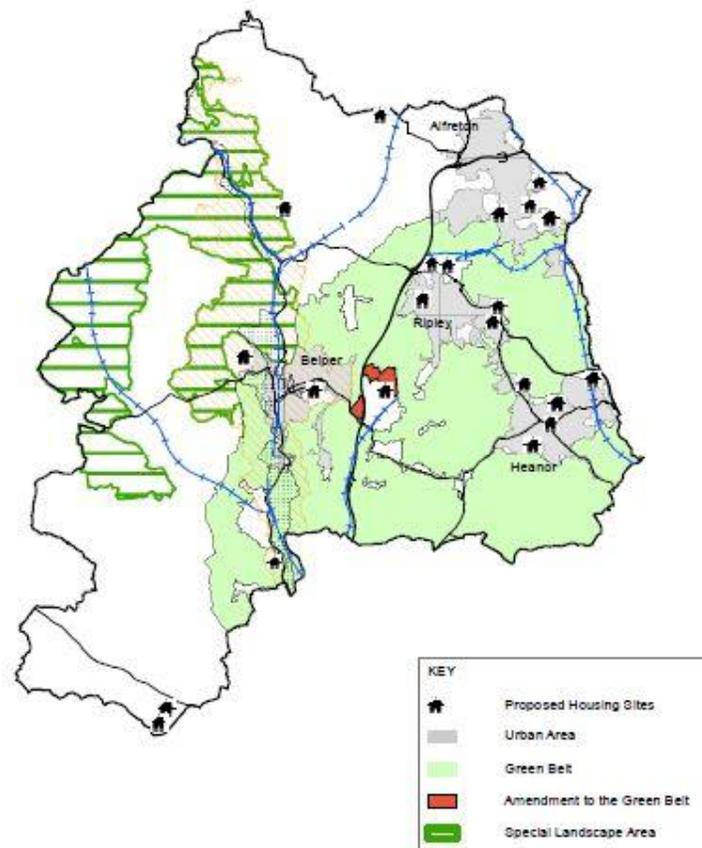
- which provides us with any renewed reassurance that the housing land supply position is any different from that presented in previous iterations of the relevant HLS documents. In short, our position remains the same as that submitted in our previous Representations.
- 3.4 We maintain our position that the Council have not paid sufficient regard to the significant technical constraints which will, as set out in our previous Representations, pose significant problems with the delivery of some of the proposed Housing Growth Sites. The land North of Denby is one such example (HGS15) where we remain unconvinced that the Council fully appreciates the overriding problems associated with the remediation of the Tar Pits, the removal of landfill material, the presence of cadmium and the legacy of historic coal mining, amongst other technical constraints. There are additional issues relating to heritage assets, flooding and ecology which will reduce the developable area and increase costs thereby impacting on viability. None of these issues has been satisfactorily addressed and the proposed Housing Growth Site at Land North of Denby should be deleted.
- 3.5 It is noted that in their response to the Pre-Submission Local Plan Derbyshire County Council<sup>8</sup>, whilst supportive in principle of the proposed Housing Growth Sites, cautiously noted that the Land North of Denby scheme could work with an appropriate level of off-site mitigation:
- ‘The provision of a new Grade Separated Junction onto the A38 together including provision of local roads would however result in reassignment of local traffic movements irrespective of any traffic generated by the development traffic. Consequently therefore, fresh traffic modelling would be required in order to assess the traffic impacts of both development traffic and secondary reassignment effects of other traffic movements.’*
- 3.6 Derbyshire County Council makes the point that as the A38 forms part of the Strategic Road Network, the Highway Authority (i.e. Highways England), would have to be satisfied that a case can be made for their Approval in Principle to a new junction. To date, we have not seen any evidence that there is an Approval in Principle, and in fact no correspondence with Highways England has been submitted in evidence thus far by the promoters of the site at Land North of Denby.
- 3.7 Derbyshire County Council further advised the Council that:
- ‘...it would be useful if the evidence base should also include a ‘Transportation Note’. This would provide a ‘commentary’ of transport issues in Amber Valley Borough and provide a useful summary of transport conditions in the Local Plan area. The Transport Note should also reflect and draw upon the modelling work,*

---

<sup>8</sup> PSLP182 dated 12 December 2017

*not least explain why the modelling work assesses a 2026 horizon when the PSLP assumes a 2028 time horizon.'*

- 3.8 There is no such information contained within the Evidence Library for the Local Plan which leaves a significant doubt in our minds that the implications of the strategic allocations on infrastructure, in particular the highways network, have considered in full by the Council. With this in mind, we remain unconvinced that the Highways Authority has accepted that the scale and location of development in the Plan will not cause significant problems.
- 3.9 As the Key Diagram on page 207 of the Submission Local Plan document shows (extract below), the majority of the Housing Growth Sites are located in the eastern part of the Borough. The sustainable delivery of those allocations will be reliant on a safe and highway network which has the future capacity, with the appropriate mitigation, to support the proposed level of development in these locations.
- 3.10 The Council has not provided clear evidence that this is the case, and on this basis, the Plan cannot be found sound.



**Figure 2.1 Extract from page 207 of the Submission Local Plan**