

# SHROPSHIRE LOCAL PLAN EXAMINATION

## Stage 1 Hearing Statement

<b>Representor unique Part A Ref *</b>	<b>A0633</b>
<b>Matter</b>	<b>1</b>
<b>Relevant questions nos</b>	<b>1-4</b>

\*Your unique reference can be found in the Schedule of Respondents (Schedule 3 of document SD014.01) at:

<https://shropshire.gov.uk/planning-policy/local-planning/local-plan-review/draft-shropshire-local-plan-2016-2038-examination/examination-library/earlier-regulation-18-plan-making-stages-of-consultation/regulation-19-pre-submission-draft-of-the-shropshire-local-plan-consultation/>

## **Matter 1 Hearing Statement A0633**

1.1 I raised a number of Reg 19 legal objections including non-compliance with the Local Development Scheme, Statement of Community Involvement, Annual Monitoring Report, Statement of Common Ground with Black Country, as well as failure to comply with Gunning Principles of case law on public consultation. In their responses to these and their GC4 comments, the Council simply say they have complied without any evidence on how they have complied. My Reg19 response provided very detailed evidence to justify non-compliance whereas the Council has failed to provide any rebuttal evidence.

1.2 Also, many of the documents it claims having complied with, were only published after the Reg19 consultation ended, so it cannot claim that it complied with these when they were not available to the public. The Local Development Scheme was not updated during the public consultation stages and only came out in March 2021, the 2011 Statement of Community Involvement was the only one that was in force during the consultation stages so it was this and not the 2021 one that they had to comply with, and the Annual Monitoring Report was also not updated until after the end of Reg 19 consultation. The Council cannot retrospectively say they complied with documents that were not published at the time of the consultations. It is also noted that the Council are using the recently updated AMR as evidence to support policies and allocations that were proposed well before that document was available – it appears that the Council are using retrospective evidence to justify their original proposals.

1.3 My Reg19 comments referred to NPPF paragraph 27 saying that Statements of Common Ground must be made available to the public “throughout the plan making” for transparency, yet the SCG Black Country was another document that did not appear until after the closure of the Reg19 consultation. This was long after the Council had proposed meeting Black Country housing and employment unmet needs. There was not only no SCG at the time this allocation was proposed, but the Council did not provide any evidence to justify the numbers. It is only since the public consultation closed and the Council was aware of concerns raised that it has sought to provide documents to provide retrospective support for what it has already decided to do.

1.4 The Planning and Compulsory Purchase Act s20 says that before submission, Local Planning Authorities must do all they can to resolve any substantive concerns about soundness and legal compliance. The Council response in SD 014.01 fails to comply with this legal requirement. They have not sought to resolve my concerns – simply saying they have complied without giving any reasoned evidence to rebut the detailed legal evidence I supplied. This is not only “not” seeking to resolve or explain why they cannot resolve, but is contrary to the Gunning case law which states that “conscientious consideration” must be given to consultation responses. The Council’s general response that they have “complied” can in no way meet these legal requirements. This equally applies to the other aspects of the Gunning principles which I provided detailed legal evidence of non-compliance which the Council has not responded to apart from saying they “complied”.

1.5 I also drew attention to case law that the Council failed to comply with the legal requirement regarding accessibility to documents and not having to paper chase for information during a consultation process. As well as not responding to this point, the Council also appear to have continued the non-compliance in respect of Examination related documents. Several documents are referred to by the Council, for instance in GC4, which are not easy to find without trawling through their website. For example, they refer to EV002, EV 008.01,02,03 – as these are given EV references, the same as all other documents in the Evidence Base file, one would expect to find these documents in that file, but they are not. The Examination page of the website refers to three locations for documents – Core Submission, Evidence Base and Examination Stage: these documents are in none of these. Similarly, this applies to the Annual Monitoring Report which is stated as being evidence for Plan.

1.6 The Council's GC4 response paragraph 16 says that all the responses on sustainability appraisal at the Reg19 stage were set out in Appendix 1. However, though my response specifically had a heading "sustainability appraisal" with some 4 pages of comments on the subject, the Council failed to include my response in its Appendix 1. As the Council says in GC4 that all consultations on the subject have been ascribed in that document, I can only assume that the Council has ignored and failed to consider properly my comments as required by Gunning case law and the PCP Act. They have certainly not, therefore, sought to resolve those concerns as required by s20 PCP Act, nor provided any detailed rebuttal evidence to the detailed reasoned justifications for non-compliance set out in my Reg19 response.

1.7 The Council refer in paragraph 17 of GC4 to "perceived inaccuracies" – the detailed evidence I provided proved that these were actual inaccuracies and not perceived.. They say that retrospective scoring had no material effect – it is of course in the Council's interest to say this to try to justify the unjustifiable. The whole legal requirement of sustainability appraisal is to do the scoring correctly at the beginning of the process to inform what is then proposed, not to retrospectively apply it to what has already been decided.

1.8 The Council also state in GC4 that they have carried out the process consistently, that all concerns were addressed (para 21) and that all stages of the appraisal were undertaken to directly inform and appraise proposals. My Reg 19 response provides clear evidence that these comments are incorrect. I pointed out that one site was allocated for development in Shifnal without having been appraised at all, and that scoring matrixes had incorrect and inconsistent criteria applied. All such sites were allocated with no or incorrect sustainability appraisals. The Council's comments that there was consistency and appraisals were used to inform proposals, is clearly wrong. They have also failed to give any reasons why they allocated a site before it being appraised or being able to compare it with other potential sites and why incorrect scoring criteria were applied. Simply trying to backdate scoring when proposals have already been made is contrary to law.

1.9 The Council has sought to backdate its appraisals to support proposals it has already decided upon. This is contrary to the law as appraisals have to be used to inform before not after.

1.10 The principle behind sustainability appraisal is to enable comparisons to be made between options for proposals. Similarly, national policy on Green Belts requires all reasonable options to be considered before the release of Green Belt. The fact that the Council allocated a site for development in the Green Belt without first appraising that site and with incorrect criteria being used at the time for scoring all sites, meant that the Council failed to ensure that it was able to properly compare possible alternative sites. Its subsequent proposals were, therefore, flawed as they failed to comply with the law on appraisals and national policy on appraisals and Green Belt release.

1.11 The Council has consistently failed to address these concerns or provide any reasoned evidence to say why the detailed justifications fully supporting the objections raised are deficient. When a Reg 19 response provides detailed evidence, it is insufficient of the Council simply to say that it has complied without giving robust rebuttal evidence. The fact that the Council has not provided such evidence and has sought to submit retrospective documents in an effort to try to justify its already submitted proposals, suggest that the Council is fully aware that it failed to comply with its legal obligations on the process.