

2. Matter 1 – Legal/Procedural Requirements (policy SP3)

SHROPSHIRE LOCAL PLAN EXAMINATION

Stage 1 Hearing Statement

Representor unique Part A Ref	A0410 – CPRE Shropshire
Matter	1 – Legal/Procedural Requirements (policy SP3)
Relevant question nos	1, 4, 15 in particular

- 2.1 Matter 1 covers (1) Plan preparation, (2) Sustainability Appraisal, (3) Habitat Regulations Assessment, (4) Equalities, (5) Climate change, (6) Neighbourhood plans and (7) Plan period. We comment below only on items (1), (2) and (5).

Plan preparation: Question 1

- 2.2 The Main Modifications to the policies covered under Matter 1 (1) that we proposed at the Regulation 19 stage were:

Statement of Community Involvement (and Gunning Principles)

2.10 We consider that the consultation for this Regulation 19 stage has not been conducted properly. It should be rerun when all Key evidence has been published.

2.11 The Draft Plan should be amended in line with the fact that Members of the Public, Town and Parish Councils and Local and National Interest groups are all overwhelmingly in favour of lower housing targets.

- 2.3 Shropshire Council's response to this, in SD014.01 (the Regulation 19 Consultation Response Summary), Schedule 2: page 718 (electronic page 768) was:

Shropshire Council considers that the consultation process undertaken to inform the Local Plan Review has been appropriate and complies with the requirements of the current and emerging Statement of Community Involvement and the 'Gunning Principles'.

Consultation on the Local Plan Review at the 'Regulation 18' Plan Preparation stage has been an iterative process, with five stages of consultation undertaken, each focussing on a specific set of issues. Each stage of consultation has been supported by a proportionate evidence base. Following each of these stages of consultation, a summary of the responses received has been prepared and form appendices to the Consultation Statement prepared for the 'Regulation 19' Pre Submission Draft of the Shropshire Local Plan.

Views expressed in response to the various 'Regulation 18' stage consultations have been considered, informing subsequent proposals, including those within the 'Regulation 19' Pre-Submission Draft of the Shropshire Local Plan.

It is recognised that there will sometimes be local opposition to proposals within 'Regulation 18' consultations. It is therefore necessary to assess the materiality of issues raised within consultation responses, rather than simply responding to the number of consultation responses on an issue. Where there has been disagreement or objection to proposals within responses to any stage of 'Regulation 18' consultation, which have not led to a subsequent change to proposals, this does not mean Shropshire Council has failed to consider these consultation responses. Rather it is the role of the Local Plan to balance the material considerations raised as part of the consultation process against a number of other issues, whether these be other consultation responses, evidence base documents, or the application of national planning policy. It is this 'planning balance' which is central to the Plan making process, with consultation responses informing the approach towards what Shropshire Council believes to be a 'sound' Plan when assessed against the requirements of the National Planning Policy Framework and legally compliant (including complying with the duty to cooperate) Plan when assessed against relevant legislation and national policy.

Where following consultation it has been proposed to make amendments to proposals in response to the consultation process or indeed any other emerging evidence, this has been documented within relevant subsequent consultation documents (reflecting the iterative process undertaken during the Regulation 18 Plan Preparation stage).

2.4 Question 1 under Matter 1 is:

1. Is the Local Plan compliant with:

- (a) the Local Development Scheme?*
- (b) the Statement of Community Involvement?*
- (c) the 2004 Act and the 2012 Regulations*

2.5 The LDS was not published in its final form until 26 February 2021, the final day of the Regulation 19 consultation.

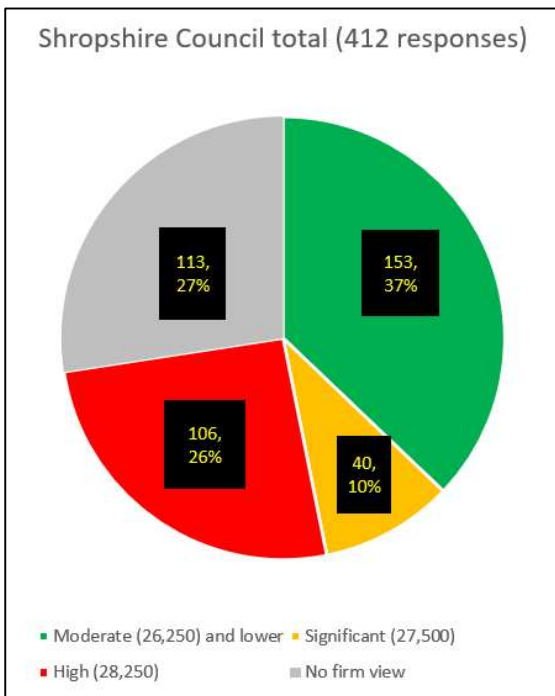
2.6 The SoCI in its final form was not published until 22 June 2021, well after the end of the Regulation 19 consultation.

2.7 Shropshire Council say that earlier and draft versions of both documents were on the website during the Regulation 19 consultation. We found that the drafts of both documents were poorly proof-read and we had to offer substantial amendments to them to make them cogent.

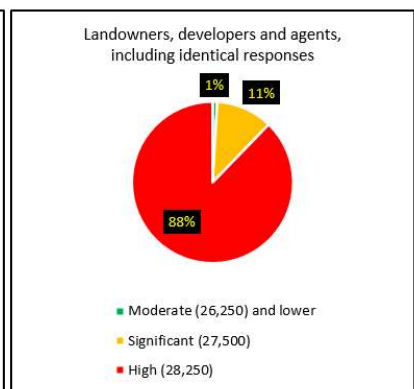
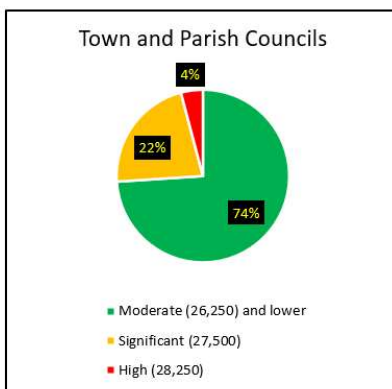
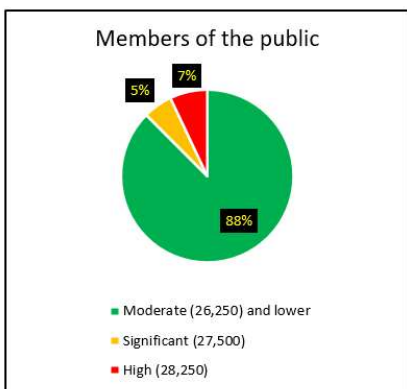
2.8 The lack of a final SCI document during the Regulation 19 consultation may not be deemed to render the Draft Plan unsound, but it certainly demonstrates a casual approach to formal consultation by Shropshire Council.

2.9 In respect of consultation, Shropshire Council say above (paragraph 2.3) that “views expressed in response to the various 'Regulation 18' stage consultations have been considered”. In documents GC4i, the Housing Topic Paper, the preferred phrase is “carefully considered”.

2.10 The degree of care taken, and the responsiveness to replies, remains debatable. Our Consultation Response Analysis (Appendix 2 of our Regulation 19 submission) indicates that however carefully Shropshire Council considered the responses to the Issues & Options consultation, they appear to have “over-ruled” the results in favour of the highest option offered. That is captured in the charts on pages 76 and 82 of our Regulation 19 submission, which are reproduced below in slightly different form:



Shropshire Council said “whilst there was a slight preference for the ‘moderate’ growth option, there was also a good level of support for ‘high’ levels of housing growth” and used that logic to plump for the “High” option as their preferred option.



Of the 138 members of the public, 91 Town & Parish Councils and 121 landowners etc it was, perhaps unsurprisingly, only the landowners who favoured the “High” option.

2.11 That is why we continue to say that there is a flawed consultation process, which is undemocratic, and that the targets are unreasonably high. Shropshire Council's responses do nothing to alter our contention that the Gunning Principle that the product of consultation must be conscientiously taken into account, has not been properly adhered to. On the above evidence, Shropshire Council have taken the product of consultation into account . . . and over-ridden it.

2.12 On the general subject of engaging with the whole Local Plan Review process and now with the Examination in Public process, there remains a seemingly intractable problem of the paper chase involved in keeping track of all documents. We have again compiled our own catalogues, showing the size of documents, and have corresponded with the Programme Officer to try to establish the full extent of what documents were new since the Regulation 19 consultation. The result was not wholly satisfactory.

Sustainability Appraisal: Question 4

2.13 Question 4 under Matter 1 is:

Have any concerns been raised about the SA methodology and what is the Council's response to these?

2.14 In our Regulation 19 submission, Section 3 on pages 10 and 11 considered the Sustainability Appraisal. The Main Modifications we proposed, after listing at paragraph 3.1 the points previously made, were:

3.6 The SA is not a reliable guide to the true sustainability of any one site and should not be relied on as a determinant of allocated sites.

2.15 Shropshire Council's response to this, in SD014.01, Schedule 2: Page 720 (electronic page 770) was simply to say:

The Planning and Compulsory Purchase Act 2004 requires SA to be carried out for new or revised Local Plans and as such SA is an important consideration in the site assessment process. However, as the Council's site assessment documents show, SA is one of many considerations of the suitability of a site for housing or employment use. It is thus not the main determinant. No change proposed.

2.16 This seems slightly at odds with, for instance, the statements in the fourth box on page 6 and the first box on page 7 in document GC4g (the Green Belt Topic paper) that the site assessments in the Sustainability Appraisal (SD006.03 – SD006.21) formed **the key evidence** in making allocations.

2.17 Shropshire Council have still not fully answered our, and others', criticisms of the methodology of the Sustainability Assessment in choosing between sites and deciding on site allocations.

Climate change: Question 15:

2.18 Question 15 under Matter 1, under the sub-heading of Climate change, is:

How does Policy SP3 along with the overarching strategy of the Local Plan secure the development and use of land which contributes to the mitigation of, and adaptation to, climate change consistent with S19 (1A) of the Planning and Compulsory Purchase Act 2004 and paragraphs 152 – 158 of the Framework?

2.12 As noted above, our proposed modifications were:

SP3 Climate Change

6.15 The Draft Plan must include a carbon budget and a strategy for achieving it.

6.16 The intentions within policy SP3 must be cascaded to the development management policies in a more concrete manner.

2.19 Shropshire Council's response (SD014.01, Schedule 2: Page 722, electronic page 772) was:

There is no requirement in national planning policy or other legislation for a Local Plan to set a carbon budget and therefore the Council considers this is not necessary. The Council considers that draft Policy DP11 appropriately supports the strategic intentions of draft Policy SP3.

2.20 Paragraph 153 of NPPF says:

Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures [footnote 53] in line with the objectives and provisions of the Climate Change Act 2008]

2.21 The Climate Change Act requires the setting of legally-binding 'carbon budgets', albeit by Government. The Climate Change Act also makes reducing carbon emissions a legal obligation. Local Authorities should therefore have targets for reducing carbon emissions just as much as they do for housing targets and employment targets. If the issue is that Local

Authorities are competing with each other to attract housing and employment development, which they need to meet their growth targets, and they can't afford to set higher carbon reduction standards than their neighbours for fear of driving developers away, then that is a matter that could be easily dealt with within SoCGs under the Duty to Cooperate. The raft of 14 SoCGs with neighbouring authorities, all produced after the Regulation 19 consultation, have failed to take that opportunity.

2.22 NPPF Paragraph 25 clearly says that *“Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans”*. An authority like Shropshire Council that has declared a Climate Emergency must surely consider that Climate Change matters are *strategic matters which they need to address in their plans*. Shropshire Council's SoCGs have all failed to collaborate with neighbouring authorities about this.

2.23 Also, NPPF paragraph 152 requires that *“the planning system . . . should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions”*. Yet CPRE research¹ shows that there is very little evidence of radical measures being adopted in local plans, and that remains the case with this Shropshire Plan. Crucially, Planning Inspectors are not demanding that plans itemise and quantify how they will achieve net-zero. This is in sharp contrast to how local plans are explicitly required to itemise and quantify how they will meet housing needs. Both objectives are important, but there is a stark difference in emphasis.

2.24 Shropshire Council has produced no new evidence that its Plan goes far enough to achieve *radical reductions in greenhouse gas emissions* and therefore remains unsound on that score.

¹ <https://www.cpre.org.uk/news/planning-to-fail/>