

SHROPSHIRE LOCAL PLAN EXAMINATION

Stage 1 Hearing Statement

Representor unique Part A Ref *	A0636
Matter	1 (Legal Compliance/Procedural Requirements) and 2 (Duty to Cooperate)
Relevant questions nos	ID1 Paragraphs 5, 6 and 7

*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/>

1. ID1 Paragraph 5: Has the Plan been prepared in general accordance with the Statement of Community Involvement and public consultation requirements?

- 1.1 We consider that SC have not prepared the above documents in general accordance with public consultation requirements as set out in national legislation.
- 1.2 Throughout the review process it should be stressed that firstly SC have failed to provide Key Evidence based documents, which should have been appended to the Regulation 19: Pre-Submission Draft of the Shropshire Local Plan consultation (December 2020- Appendix 3), Secondly SC have introduced new evidence since the Regulation 19 consultation took place this should have formed part of the Regulation 18 and 19 review process and lastly, the timing and length between each consultation has been inadequate to provide members with an opportunity to review and respond to the Evidence Base informing the Draft Local Plan.
- 1.3 Previously we have expressed our concerns that a number of Key Evidence documents, which were listed as "Key Evidence Informing Local Plan Policies (Reg. 19 Appendix 3)" did not appear on SC's website until after the close of the Regulation 19 consultation. We consider that some key documents have only recently formed part of SC's evidence base and some remain absent.

Some of these documents include the following:

- (1) Shropshire Economic Development Needs Assessment Final Report (published in April 2021), which should have been applied to align SC's strategic approach under Policy SP2

- (2) SC's Retail Study (2020), which is still missing from the evidence base
 - (3) Shropshire Five Year Housing Land Supply Statement (published in March 2021)
 - (4) The Shropshire Authority Monitoring Report was unavailable throughout the Regulation 19 consultation
 - (5) Estate Plans prepared and in preparation across Shropshire, which is still missing from the evidence base and should have been used in the applied approach to Policy SP15 (Whole Estate Plans)
 - (6) SC's Landscape Character Assessment and Historic Landscape Characterisation, which are still missing and should have been prepared to inform Policy DP17 (Landscape and Visual Amenity)
 - (7) The Shropshire Green Belt Exceptional Circumstances Statement was released during the Regulation 19 consultation and respondents were not made aware of this
- 1.4 With particular note, SC's Annual Monitoring Report (AMR) was not published online until after both the Regulation 18 and 19 consultations. It is now available in the list of 'Other Background Documents'. SC have repeatedly stated that the AMR is key evidence, relating to information on local plan policies, yet it was not introduced by SC under the Regulation 19 consultation.
- 1.5 Shropshire Economic Development Needs Assessment Final Report was not published online until April 2021, for this reason SC were not able to establish their required employment need when formulating their strategic approach. This was decided under Policy SP2. It would appear that SC are in fact introducing new evidence to justify the details already proposed under the Draft Plan. New retrospective evidence has been produced to reaffirm why SC's original proposals did not stand up to scrutiny. This is contrary to R.V Brent LBC Ex p. Gunning {1985} 4 WLUK 200, which sets out the four legal principles which consultations are legally bound to comply with (these are known as the Gunning Principles).
- 1.6 It is extremely concerning that SC have been able to list documents for the Reg 19 consultation as being "Key Evidence Informing Local Plan Policies" yet not provide all the documents during the consultation Period. Omissions include the Authority Monitoring Report (AMR) and their Economic Development Needs Assessment Final Report. The latest AMR document for 2019/20, prior to this published since the 2016/17 AMR, however it was listed as key evidence informing draft policies SP02, SP04, DP31 and S1 - S18. As the AMR and Economic Development Needs Assessment were both absent and not up to date during the formation of the above policies, we consider these policies unsound.
- 1.7 It should also be noted that a final version of SC's Local Development Scheme was not published until 26 February 2021 which coincided with the deadline day for Regulation 19 representations.

1.8 In addition to the above, SC have prepared new evidence requested in line with the Inspectors' Initial Questions (3rd November 2021), since the Regulation 19 Consultation. These documents can be found under the "Council Documents" section which include the following:

- (1) GC4 council response to ID1 & 2 (Planning Inspectors' initial questions)
- (2) GC4a Appendix 1(Sustainability Appraisal responses to Reg 19 consultation)
- (3) GC4b Appendix 2 (Habitats Regulations Assessment responses to Reg 19 consultation)
- (4) GC4c Appendix 3(River Clun SAC Mitigation Measures Study Brief)
- (5) GC4d Appendix 4 Clun Strategic Liaison Group Joint Position Statement Dec 21
- (6) GC4e Duty to Cooperate - Statement of Common Ground with Newcastle Under Lyme Borough Council - EV031
- (7) GC4f Duty to Cooperate - Statement of Common Ground with Wyre Forest District Council - EV040
- (8) GC4g Topic Paper - Green Belt
- (9) GC4h Housing Strategy (Adopted) - EV063.01
- (10)GC4i Topic Paper - Housing
- (11) GC4j Five Year Supply Statement 2021 - Draft Shropshire Local Plan - EV048.07
- (12) GC4k Five Year Supply Statement 2021 Executive Summary - Draft Shropshire Local Plan - EV048.08
- (13) GC4l SD003.01 Updated Schedule of Proposed Minor (Additional) Modifications
- (14) GC4m SD003.02 Schedule of Proposed Main Modifications
- (15) GC4n Topic Paper - Employment Strategy
- (16) GC4o SD014.03 - Regulation 19 consultation response summary Schedule 1a
- (17) GC4p Housing Trajectory for Shropshire (March 2022)
- (18) GC4q - no document assigned
- (19) GC4r Duty to Cooperate - Statement of Common Ground with Worcestershire County Council - EV038
- (20) GC4s Duty to Cooperate - Staffordshire County Council Correspondence
- (21) GC4t Shropshire Strategic Infrastructure and Investment Plan 2022
- (22) GC4u River Clun SAC Phosphate Mitigation Solutions For Residential Development Final Report
- (23) GC4v River Clun Phosphate Budget
- (24) GC4w River Clun SAC Nutrient Neutrality Delivery Options
- (25) GC4x Duty to Cooperate - Statement of Common Ground National Highways - EV023
- (26) GC4y River Clun Phosphate Calculator
- (27) GC5 Shropshire Council Response to ID5

1.9 Over the 27 documents, which can be found in this section there has been circa 1,126 pages of new evidence presented to the respondents who commented

on the Regulation 19 consultation. The most recent document (GC4y River Clun Phosphate Calculator) was published on 25th April 2022, which has only given respondents just over 5 weeks to review the new evidence prior to the deadline for the submission of the hearing statements (1st June 2022). In addition, the Shropshire Economic Development Needs Assessment Final Report which is not included on this list but, is cross referenced in the Employment Strategy Topic Paper, introducing 140 pages of new evidence.

1.10 Under the “Other Documents” section on SC’s website the following list of documents has also been uploaded since the Regulation 19 consultation, which amounts to 101 additional pages of evidence.

- (1) OD001 Historic England Correspondence (SHR166)
- (2) OD002 Natural England Water Quality and Nutrient Neutrality Advice
- (3) OD002a Natural England Nutrient Neutral Generic Methodology
- (4) OD002b Natural England River Clun Nutrient Budget Calculator
- (5) OD002c Natural England Nutrient Budget Calculator Guidance RiverClun
- (6) OD002d Natural England Nutrient Neutrality Map River Clun SAC
- (7) OD002e Natural England River Clun SAC Evidence Pack
- (8) OD002f Natural England Nutrient Neutrality Principles
- (9) OD002g Natural England Nutrient Neutrality - A Summary Guide

1.11 Section 20(2) of the Planning and Compulsory Act specifically states that the LPA must not submit the plan unless they think it is ready for independent examination. Given the above publication of all the new evidence by SC since the Regulation 19 consultation, we consider that SC have not satisfied this part of the criterion under Section 20 (2).

1.12 Inspectors will also be aware that respondents are only given the right to appear and to be heard at the hearing sessions if said person under section 20 (6) of the PCPA has made a representation seeking a change to the plan within the deadline set by the LPA for Regulation 19 consultation responses. We would like to understand why respondents who failed to provide a representation at regulation 19 are now not being given the opportunity to comment on the above new evidence, these details were not admitted and should have been relevant to the regulation 19 consultation. This seems fundamentally flawed.

1.13 In addition, we are deeply concerned that respondents who are able to comment haven’t had enough time to review all of the evidence prior to the preparation of their hearing statements. This matter has been raised with the Programmes Officer.

1.14 On a separate issue, commentary on the timing and length between each consultation throughout the Local Plan Review is discussed throughout our Regulation 19 representation.

1.15 For the regulation 18 Draft Pre-Submission consultation, only 8 weeks was allowed, this coincided with the summer holiday. This differs from the Preferred Scale and Distribution consultation Options consultation, neither of which was over a holiday period. It is less than either the Preferred Sites consultation or

the Strategic Sites consultations (9 and 10 weeks). The Strategic Sites consultation was also only for 4 sites. The Draft Pre-Submission Plan consultation sets out a number of new policies (35). A substantial amount of evidence based documents were not available for public view prior to the consultation. The Plan itself referred to over 50 different pieces of evidence that it says have been used to prepare the Plan and many of these had a number of appendices.

- 1.16 For the Regulation 19 consultation we were disappointed at the time that SC chose to proceed with the consultation, prior to reporting the results of the regulation 18 pre-submission draft consultation. This consultation was conducted over the Christmas period and during a time of national lockdown. The consultation was originally only for 7 weeks, however, this was extended until 26th February 2021 (11 weeks), 10 days prior to the deadline, as a result of public pressures including Shifnal Town Council to do so.
- 1.17 A letter from the Programme's Officer, was received on 11th April 2022 this set out the deadline for hearing statement submissions and a draft hearing timetable for the sessions. This has provided respondents just over 7 weeks to review all of SC's new evidence introduced (see above) since Regulation 19 and where necessary refute claims made by SC. Respondents have clearly not been given enough time to respond accurately to all of the new evidence and again, we are not satisfied that SC have followed public consultation requirements as set out in national legislation.

2. ID1 Paragraph 6: Following Duty to Cooperate discussions, have signed Statements of Common Ground now been secured between the Council and all relevant parties? Furthermore, have any significant concerns been expressed by interested parties about the Duty to Cooperate which remain in dispute?

- 2.1 We would like to express our concerns over SC's delayed approach in contacting adjoining Local Authorities regarding the potential Green Belt release in Shropshire and over the timing of some of signed agreements that have recently been published online.
- 2.2 As set out in paragraph 7.42 of SC's new Green Belt Topic Paper, "*This proposed spatial strategy has been developed through an iterative process, involving a series of Regulation 18 'Plan-Making' consultations. It also formed a specific matter for Duty to Cooperate discussions*". In paragraph 7.43 "*On this basis, in February 2020, a letter was sent to adjoining Local Authorities regarding potential Green Belt release in Shropshire*". This letter specifically described the growth proposals at Albrighton, Alveley, Bridgnorth and Shifnal, together with other strategic sites which lie within the Green Belt (these areas were outlined in the Preferred Sites and Strategic Sites consultation). In paragraphs 7.44 and 7.45 they state that "*the letter to adjoining Local Authorities asked whether there was suitable, available and deliverable land within their area which would be able to functionally serve the geographical location(s) (i.e. Bridgnorth, Albrighton, Shifnal, Alveley and RAF Cosford) and*

strategic purposes identified. They were also asked if they were able to assist, how much of the preferred option development requirements could be sustainably accommodated, where and by what mechanism(s). No Local Authorities responded indicating that they had such opportunities”.

- 2.3 We would like to understand the reasons why SC delayed sending a letter to adjoining Local Authorities until February 2020 (as part of the Duty to Cooperate) advising them of the potential Green Belt release in Shropshire, which requested a call for alternative sites. Surely this request should have been made to adjoining Local Authorities between the Preferred Scale and Distribution Development Consultation (October 2017) and the Preferred Sites Consultation (November 2018). The lateness of this request did not allow for any meaningful engagement between parties prior to the Regulation 18 Pre-submission draft of the Shropshire Local Plan Consultation (August 2020).
- 2.4 Furthermore, adjoining local authorities were given a deadline of 20th March 2020 to respond to the letter. This deadline allowed only a 16 working day window for local authorities to respond to this request. Providing such a small timeframe on important strategic matters regarding Green Belt release seems ill-conceived.
- 2.5 Since the Regulation 19 consultation closed (February 2021) SC have published 21 Statements of Common Grounds as part of their evidence base and examination stage documents (Council Documents section). The most recent statement between SC and National Highways was only agreed and published online in April 2022. This is only one of many examples where we are struggling to ascertain why engagement between both parties has happened so late throughout the review process and why respondents were not consulted on this new evidence through the Regulation 19 consultation.

3. ID1 Paragraph 7: Have any significant concerns been expressed by interested parties about the Sustainability Appraisal (SA) which remain in dispute?

- 3.1 SC have failed to respond to our concerns, which were set out in Appendix 1 of our Regulation 19 representation.
- 3.2 Under evidence GC4a Appendix 1(Sustainability Appraisal responses to Regulation 19 consultation) provided by SC, their generic response to our comments under reference A0060 states that *“the Council considers that it has complied with the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 and the Planning and Compulsory Purchase Act 2004 for its SA and site assessment process. No change is proposed”*.

3.2.1 The following points remain in dispute:

- (1) We consider that the Sustainability Appraisal fails to properly assess sites against all of the scoping objectives especially proximity to public transport services (SO6 incorrectly recorded as quality of agricultural land), the reduction of CO2 emissions (SO12) and adaption and mitigation to climate change

(SO13). The SA which was used to inform the site assessments failed to assess these key scoping objectives in the Pre-Submission Plan and Strategic Sites consultation. Rendering the process not legally compliant and producing site selection decisions which are inadequate, incorrect and unintelligible under the Gunning Principles. SC have provided no commentary on these inadequacies which have informed the methodology of the SA.

(2) We consider that SC have failed in relation to the Strategic Environmental and Sustainability Appraisal guidance note Paragraphs 002, to undertake an iterative process and Para 018 to consider all reasonable alternative sites and the reasons for setting them aside. The preparation of the Pre-Submission Plan is therefore legally flawed.

(3) We consider that the SA on the Preferred Scale and Distribution consultation stage was prepared on the basis Shifnal would receive 16ha of employment land and this would minimise the need for additional car-based transport. The Preferred Sites stage increased the amount of employment land for Shifnal to 40ha, but the SA failed to assess the public transport criteria and to assess site SHF018d individually against alternatives. SC have failed to justify the increase in employment land from 16 to 40ha and the allocation and one can only assume the increase is to satisfy the Black County's unmet housing need. Site allocation Shif18d was not appraised at the correct time throughout the review process, as it was not included within the SA. This indicates that there has been a pre-determination of selected sites, again contrary to Gunning Principles, which require consultation at a formative stage before final decisions are made. SC have stated in document GC4o SD014.03 (Regulation 19 consultation response summary Schedule 1a) that *"many responses concern perceived inaccuracies in scoring sites. The Council has reviewed the SA scores for the sites affected and concluded that in all cases, the changes suggested would not alter the site's rating. As they would have no material effect, the Council does not consider them to be significant"*. Can SC please explain how the above inconsistencies in the scoring are not significant

(4) Throughout GC4o SD014.03 (Regulation 19 consultation response summary Schedule 1a) and GC4a Appendix 1, SC has failed again to provide justification on how other sites in Shifnal were ruled out in the sustainability appraisal and how the heritage assessment was used to inform your site selection process. We would like clarity of these matters throughout the hearing sessions.

3.2.2 SC state in paragraph 23 of document GC4o SD014.03 that the *"Council thus considers that all concerns raised about the SA at the Regulation 19 stage on the SA of sites have been addressed"*. We refute these comments and consider that SC have not addressed or clarified their position on the above points 1 to 4.