

Matter 2: Duty to Cooperate

Representor: A0137



SHROPSHIRE LOCAL PLAN EXAMINATION

Stage 1 Hearing Statement

Representor unique Part A Ref *	A0137
Matter	2 – The Duty to Cooperate
Relevant question nos	1-14

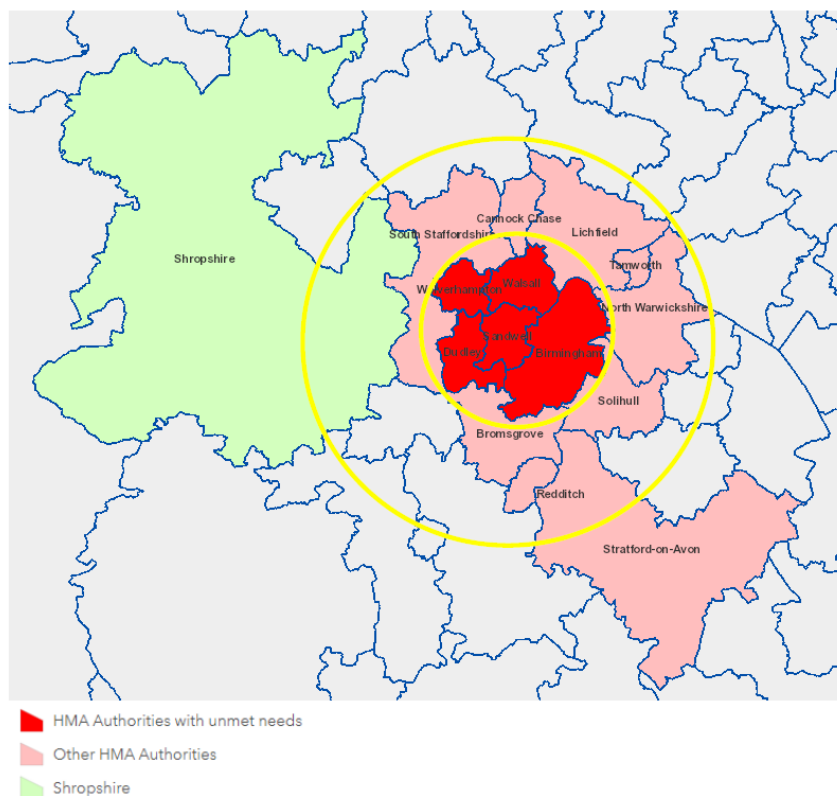
1. Q1 What are the genuinely strategic matters for the Local Plan as defined by S33A (4) of the Planning and Compulsory Purchase Act?

1.1. Cross Boundary Needs

1.1.1. **Unmet housing needs arising from the Black Country and from Birmingham. Unmet employment needs arising from the Black Country and strategic employment site needs for the West Midlands.** The opinion of Matthew Reed QC attached at Appendix 1, sets out in detail why the BCA needs require consideration as a strategic matter through the duty to cooperate, and in particular why the full scale of those unmet needs is a strategic matter and not just the amount that the Council has agreed to 'accept'.

1.1.2. Please refer to Appendix 11 Q1 for greater detail of the scale of each of those needs. The plans below illustrate the relationship with the Greater Birmingham HMA and WMCA which are relevant to strategic matters.

Fig 1: Greater Birmingham and Black Country Housing Market Area – Shropshire Interface



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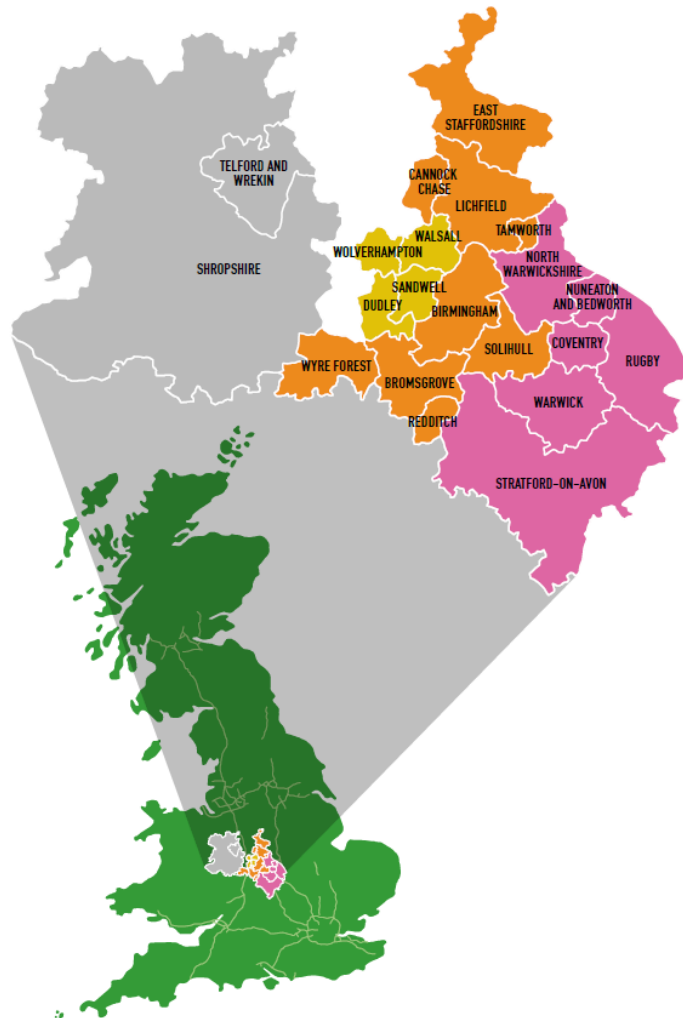
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- 1.1.3. The WMCA Strategic Economic Plan (**WMCA SEP**) illustrates on its second page (see below), the intention that Shropshire as a non-constituent member is included within its scope.

Fig2: West Midlands Combined Authority Strategic Economic Plan – page 2

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2. Q2. Who has the Council engaged with in terms of overall housing provision and what form has this taken?

- 2.1.1. **The evidence of co-operation published by Shropshire is scant, comprising only the Council / ABCA SOCG written after cooperation had concluded, and the Authority Monitoring Report (base March 2020) (AMR).** The AMR simply states the Council undertook effective cooperation, but it says nothing about what the strategic matters were, what the process was, and how the matters progressed or with whom the Council engaged. In short, the AMR provides no evidence of cooperation, which it is required to do by The Local Planning Regulations 2012 Part 8 Regulation 34 (7) and PPG.
- 2.1.2. The Regulation 19 Pre-Submission Plan is similarly vague on with whom and about what the Council has cooperated about strategic matters, identifying only the Black Country at 2.27.
- 2.1.3. The first engagement by the Council with BCA in relation to housing provision was the Council's reply to the ABCA letter requesting assistance (EV041.01). The reply published by BCA is attached at Appendix 9. That reply acknowledged a functional economic relationship between Shropshire and the Black Country.
- 2.1.4. The evidence indicates that dialogue between the Council and the BCA (individually or as a grouping represented by ABCA) in the period since July 2018 has primarily been through formal consultation on Plan draft documents and formal representations submitted by ABCA, and Walsall and Dudley Councils to those consultations.
- 2.1.5. Additional evidence has been published with the BCP. Appendix 4 sets out a chronology of the dialogue that we have been able to identify. **There are no published minutes of any meetings and no indication of the topic or matters discussed at any meeting, nor indication of who attended such meetings. There is no evidence of assessing impacts of emerging policies and no evidence of policy coordination.**
- 2.1.6. There is no evidence of any dialogue outside of the formal representations and letters identified in the chronology and summarised (where available) at Appendices 2 and 3.
- 2.1.7. **The ABCA Regulation 19 representations state there has been no engagement by the Council with ABCA since ABCA submitted its Regulation 18 representations, which was a critical stage of the plan process.**

3. Q3. What are the relevant inter-relationships with other neighbouring authorities in terms of migration, commuting and housing markets?

- 3.1.1. The Housing Topic Paper (HTP) GC4i paras 3.1—3.129 sets out the Council's explanation of how the Council claims to have taken account of the BCA unmet housing need with a focus on the geographic relationship between Shropshire and the Black Country. **The analysis of the HTP focuses on the existing migration and commuting relationships although presents a calculation methodology for acceptance of BCP needs based upon migration only.**
- 3.1.2. **The Council has paid no regard to the objectives of 'step change' and the stated focus of the evidence base from the SEGS, WMCA SEP, EDNA, M54 Growth Study, and Strategic Sites Consultation of the advantages of providing for BCA housing needs in the M54 Strategic Corridor, and co-locating housing with employment development in the only strategic corridor location where that provision can best meet the mutual needs of the Council and BCA.** These are relevant interrelationships which should have been considered.
- 3.1.3. Additionally, the Council's approach does not consider the wider HMA constraints with a very significant residual unmet need from Birmingham and inability of the BCP to meet any share of that need. Neither does the Council's approach consider the close working relationship and alignment of objectives with Midlands Connect and its transport infrastructure objectives. All of these are relevant interrelationships. Please refer to Appendix 11 Q3 for additional details.

4. Q4. How have these inter-relationships been considered in preparing the Local Plan in terms of identifying the Local Housing Need (LHN) and setting the Local Plan's Housing Requirement?
- 4.1.1. **The inter-relationships of migration, commuting and travel to work areas and road and rail links have been used by the Council to confirm that there is clear relationship between Shropshire and the Black Country administrative areas and that the evidence of that relationship is sufficiently strong to justify consideration of the Plan accommodating BCA unmet needs.**
- 4.1.2. **No additional housing provision is made quantitatively in response to the relationship with the BCA and the acceptance of 1,500 dwellings of BCA unmet need.** No housing sites have been allocated specifically for BCA needs and there is no consideration of the strategic relationships between Shropshire and the BCA and WMCA and the mutual benefits for Shropshire of strengthening those relationships identified by the Plan's evidence base (see response to Q3).
- 4.1.3. The Sustainability Appraisal provides no evidence to explain how the 1,500 figure was reached or assessment of alternative levels of provision as required by NPPF 11b. There is also no assessment of alternative distribution of housing provision to consider if that would better meet the BCA need. The SA contains no evidence of any assessment of the benefits of accommodating a strategic site for housing and employment in the M54 corridor as requested by ABCA, and Walsall and Dudley Councils. Please see related response to Matter 1.
- 4.1.4. It appears that the approach taken by the Council has been a broad sieve of migration patterns that exist already. The Council has not taken account of other factors which it highlights will increase out commuting from the Black Country and has failed to offer greater support to the housing shortfall because it considered it "too difficult to predict" (HTP paragraph 3.89). Please refer to Appendix 11 Q4 for analysis of the migration data and inter-relationship with Birmingham which indicate that on the migration measure as used by the Council, a significantly greater level of housing provision is required.

5. Q5. What is the justification for the allocation of 1,500 homes to meet some of the unmet housing need from the Black Country?

5.1.1. Please refer to our responses to Matter 2 Q3 and Q4.

5.1.2. Section 3 of the Housing Topic Paper (**HTP**) explains the Council's approach to ABCA's unmet housing need. Please refer to our comments on that at Appendix 11 Q4 and Q5.

6. Q6. Are there any other issues of unmet housing needs within the Housing Market Area (HMA) or relating to other authorities? If so, how are these being addressed?

6.1.1. Please refer to our response to Matter 2 Q1.

6.1.2. **There is no evidence that the unmet housing needs of Birmingham and the implications of BCA being unable to provide for a share of those unmet needs, have featured in the Council's considerations at all.**

7. Q7. Are the Statements of Common Ground (SoCG) with neighbouring authorities and stakeholders still relevant and up to date?

- 7.1.1. The SOCG with ABCA was not relevant at the point it was entered into, as ABCA is not a PCPA 2004 s33A (1) body. The distinction between ABCA and its member Authorities is acknowledged at SOCG 2.2. ABCA represents the BCA only so far as they are collectively aligned. **The Regulation 19 representations of Walsall and Dudley (being two of the four constituent Authorities of ABCA) both raise objections over and above the ABCA Regulation 19 representations and the position set out in the SOCG.** Those objections are to the strategic approach of the Plan and the failure to positively or effectively respond to cross boundary strategic matters. The ABCA, Walsall and Dudley Regulation 19 representations all state that the regulation 18 representations made by ABCA related to the requirements of the duty to cooperate and the requirement for a positive response from the Council to the land shortfall to meet the growth needs of the Black Country. **The objections of Walsall, Dudley and ABCA at Regulation 19 continue to record objection to the way in which the identified strategic needs have been addressed in the Plan through the duty to cooperate.**
- 7.1.2. There is not agreement from Walsall and Dudley that the offer of 1,500 dwelling and 30ha of employment land is sufficient, as both consider that additional provision should be made now (see Q8). Walsall and Dudley both consider that strategic employment needs of the West Midlands identified by the WMSESS (May 2021) and WM Land Commission Task Force (2017) should be responded to. Both Walsall and Dudley identify land at M54 J3 as being suitable to meet the needs they identify. Accordingly, there is no SOCG with any BCA. The SOCG with ABCA does not accurately record the agreement or disagreement with Walsall and Dudley.
- 7.1.3. The SOCG states at 8.12 that it is a matter of agreement that current evidence indicates a continuing need to further increase the level of cross boundary support for BCP needs from all neighbouring and adjoining council areas. That statement includes Shropshire. There is however no agreement from Shropshire to increase its cross boundary provision.
- 7.1.4. The inclusion with the SOCG of proposals from both the Council and BCA for a subsequent plan review to address known about likely and very significant levels of residual unmet need, is evidence of the failure of the cooperation process required by s33A.
- 7.1.5. The considerations of Inspector Louise Crosby in her report to Tonbridge and Malling Borough Council (June 2021) raise a number of parallel issues which are applicable to the Shropshire Plan process. These are summarised at Appendix 11 Q7, together with greater explanation of the technical failures of the cooperation reported in the SOCG.
- 7.1.6. For the reasons set out above and at Q2, the SOCG does not comply with the guidance of the NPPF and PPG as it is required to do by s33A (7) and is not therefore relevant or up to date.

8. Q8. What is the position of other authorities in the HMA and elsewhere in terms of the planned level of housing in Shropshire? Have specific concerns been raised through duty to cooperate discussions or representations which still are unresolved?

- 8.1.1. As explained at Q2 and Q7 both Walsall and Dudley seek a higher level of housing provision in the Plan now. Walsall and Dudley both propose in their Regulation 19 representations that the Plan should be providing an additional 3,000 dwellings for BCP needs, a total of 4,500 dwellings. Walsall and Dudley both propose that housing provision to meet BCP needs is provided in a strategic new settlement at M54 J3.
- 8.1.2. ABCA's Regulation 19 objections are on the basis that the Plan is not doing enough to plan to meet needs which the Council have good reason to believe are likely to exist following future adoption of the BCP. ABCA explained that it has provided evidence to the Council of what amount of its own needs it is able to accommodate, and it sets out an expected residual unmet need of 19,550 – 21,550 homes.
- 8.1.3. Please refer to Appendix 11 Q8 for additional detail.

9. Q9. In overall terms, has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Local Plan? What has been the outcome of co-operation and how has this addressed the issue of housing provision?
- 9.1.1. Please see Q2, Q7 and related responses Q13 and Q14. Please also refer to the opinion of Matthew Reed QC at Appendix 1, which sets out in detail how the Council has failed to consider cross boundary need matters appropriately and to engage constructively, proactively and on an ongoing basis, resulting in failure to comply with the s33A duty.
- 9.1.2. **The outcome of the Council's response to the requests and formal representations of ABCA, Walsall and Dudley, is to 'accept' unmet need of 1,500 dwellings and 30ha of employment land. However, no additional provision of land above Shropshire's needs has been made for housing or employment needs of the BCA.** Further explanation is provided at Appendix 11 Q9.
- 9.1.3. There is no regard to the specific requests for strategic site provision in the M54 corridor made by ABCA, Walsall and Dudley, nor any consideration of the opportunity to respond to the strategic needs identified by the WMSESS and Land Commission which the SEGS sets out to respond to.
- 9.1.4. There is no evidence of constructive, active or ongoing co-operation. The SOCG which is intended to provide that evidence does not meet the requirements of Government guidance either in terms of its scope, the evidence it contains, or the timing of its publication. Explanation is set out at Appendix 11 Q9.
- 9.1.5. **The proposed solution of a plan review to address the agreed shortfall¹ and residual shortfall for the BCP² contravenes PPG³ (and therefore s33A) and is not therefore an acceptable solution.**

¹ Statement of Common Ground Shropshire with ABCA July 2021 para 8.2

² *ibid* 8.12

³ Planning Practice Guidance Paragraph: 022 Reference ID: 61-022-20190315 revision date 15/03/2019

10. Q10. Who has the Council engaged with in terms of jobs growth and employment land provision and what form has this taken?

10.1.1. The engagement and process is the same for employment as for housing. Please see response to Q2.

11. Q11. What are the relevant inter-relationships with other authorities in terms of economic activity, travel to work and the market for employment land and premises?

- 11.1.1. There are overlapping travel to work areas and strong labour market linkages with the BCA as recognised by the Economic Development Needs Assessment April 2021 (**EDNA**)⁴. EDNA concludes that from a practical perspective the inter-relationship between Shropshire, Telford and the Black Country in terms of economic functionality suggests that close cooperation on employment land supply balance is recommended going forward⁵.
- 11.1.2. There are business, training and supply chain links between Shropshire and the BCA. These are referenced in the Building an Economic Vision for Shropshire (IPPR North) November 2016 (**BEVS**), Shropshire Economic Growth Study 2017 (SEGS), Marches SEP, WMCA SEP and the EDNA.
- 11.1.3. EDNA includes market analysis provided by JLL. That market analysis finds that the demand for industrial and logistics accommodation is highest in the M54 and A5 corridors⁶ and will be different to past trends⁷. EDNA raises a concern that locations on the M54 corridor in Telford (J4 and J5) and Wolverhampton (J2) are attracting development out of Shropshire as there is a lack of comparable opportunities within Shropshire⁸.
- 11.1.4. **EDNA concludes that a flexible and responsive policy framework is required which considers the opportunities and not just the quantitative need. The growth opportunities of the M54 corridor are identified specifically in this regard⁹.**
- 11.1.5. The Marches SEP states the M54 and Shrewsbury to Birmingham railway line are key strategic transport corridors. The M54 / A5 East growth corridor provides opportunities to support employment led growth of regional significance. The Marches LEP is committed to working with the BCA and WMCA to maximise the economic potential of the M54 / A5 corridor¹⁰.
- 11.1.6. The Savills Market Update Report May 2022 (Appendix 10) explains at 5.2.7 and 5.2.8 that locations at the western end of the M54 corridor, and locations without good access to the motorway network will not be attractive to occupiers and will not serve the BCA market needs.

⁴ Shropshire Economic Development Needs Assessment (April 2021) para 9.26

⁵ Ibid para 5.54

⁶ Ibid para 9.21

⁷ Ibid para 9.17

⁸ Ibid para 7.81

⁹ Ibid paras 10.23, 10.8, 9.73

¹⁰ Ibid para 5.4

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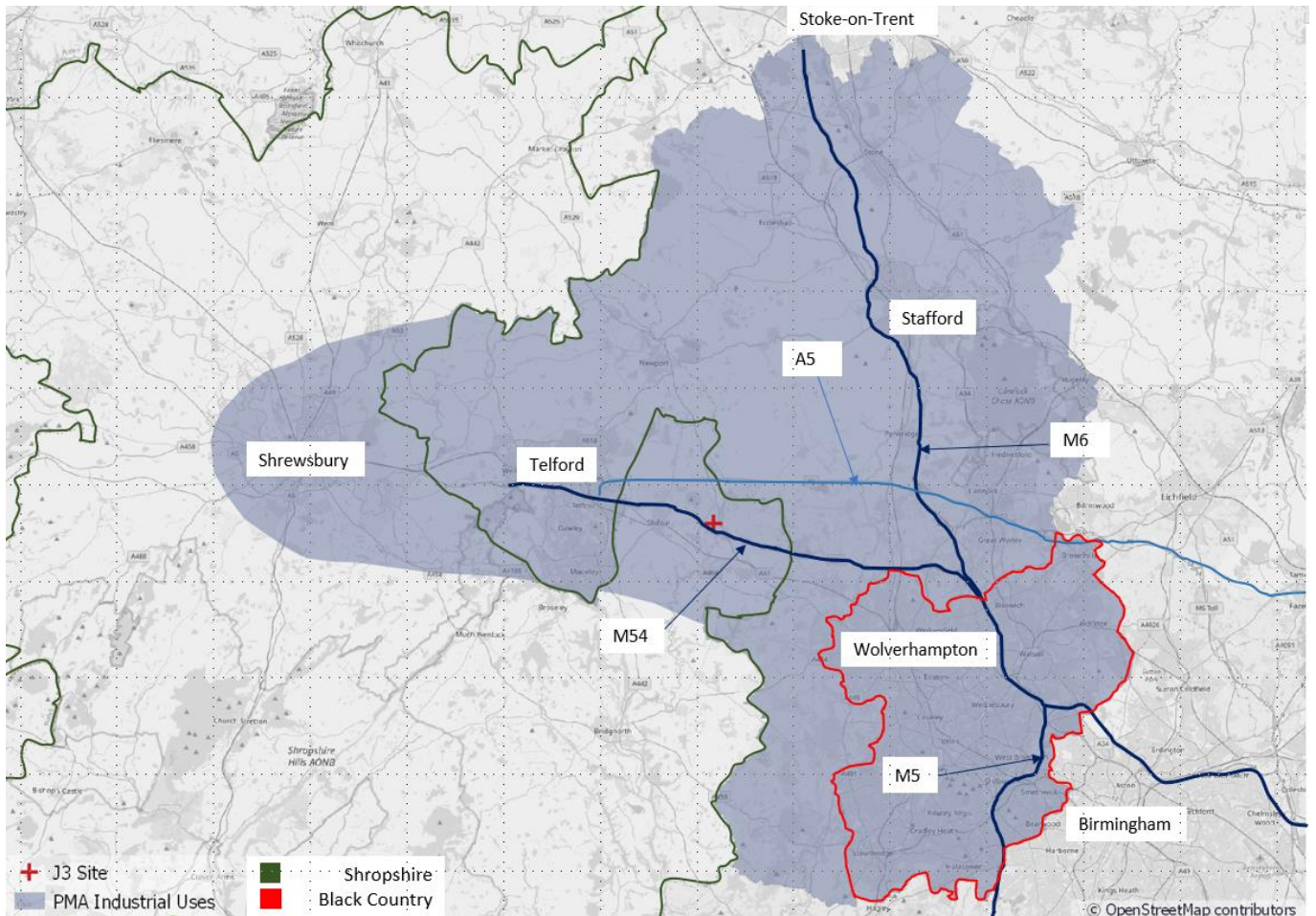
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11.1.7. Savills Market Update Report May 2022 states that there continues to be very strong demand for manufacturing and logistics property within the market area serving both Black Country and strategic West Midlands needs. To be able to accommodate that need development sites need to be appropriately located with convenient access to the motorway network, and be of an appropriate size, configuration, quality and be deliverable. This conclusion is echoed by the EDNA (April 2021) at 9.21 and 10.23.

11.1.8. The employment property market inter-relationships are illustrated by the plan from the Savills Market Update Report (Appendix 10) which shows the market area served by the J3 site. That plan is reproduced below, together with a plan showing the administrative boundaries of Shropshire and each of the BCA, with the motorway network highlighted. The plans illustrate the area of search for a strategic site to meet Shropshire and BCA needs on the M54 is restricted to that section of the M54 between junctions 2 and 4.

Fig 3: Employment Property Market Served by M54 J3

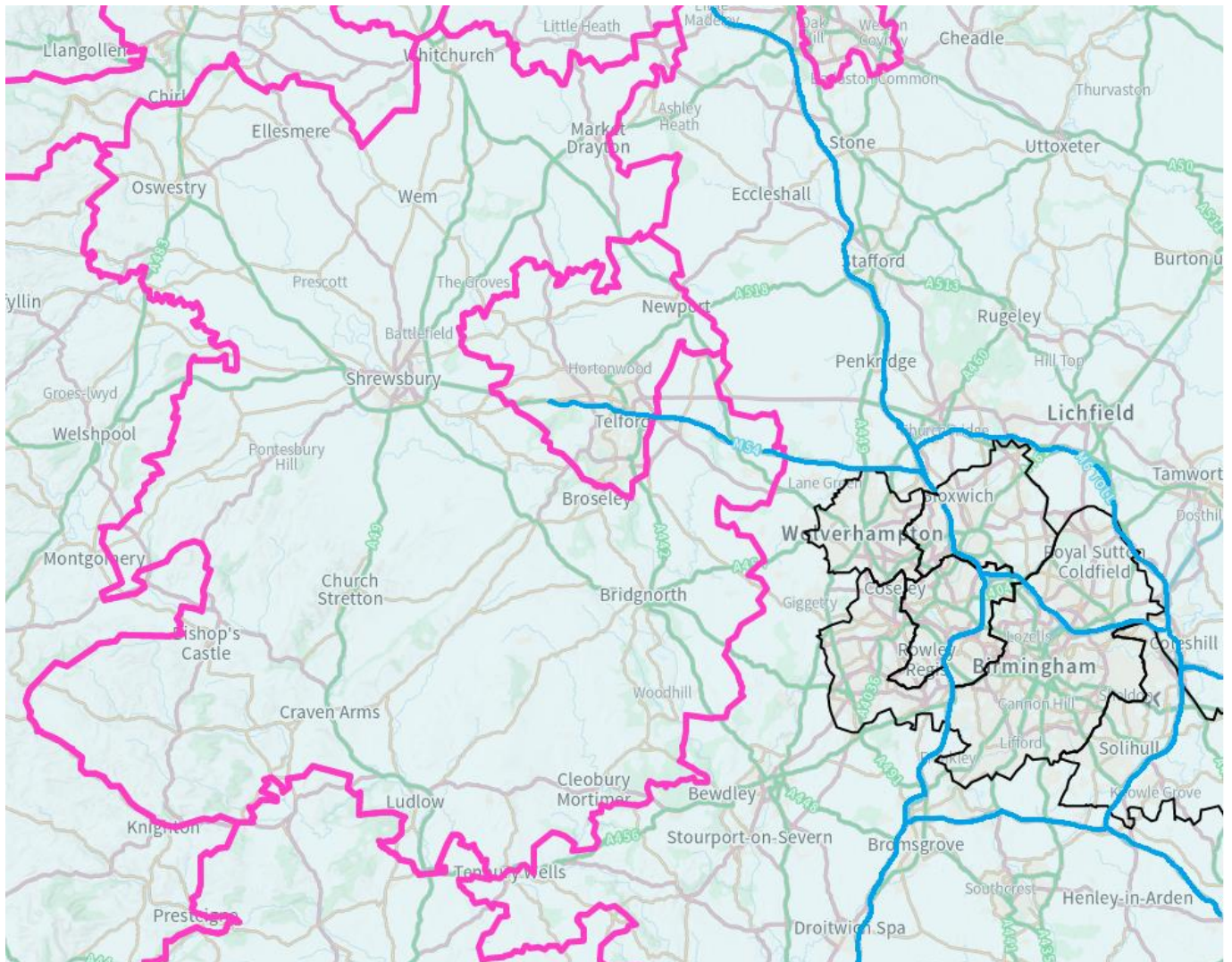


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Fig 4: Shropshire and Black Country Administrative Boundaries showing regional Motorway network



11.1.9. Further evidence of inter-relationships is reviewed at Appendix 11 Q11.

12. Q12. How have these inter-relationships been considered in preparing the Local Plan in terms of jobs growth and employment land provision?

12.1.1. **The amount, size, quality, and location of employment land provision proposed by the Plan does not acknowledge the relationship with the Black Country.** Neither does the strategic approach acknowledge or respond to the considerable body of evidence highlighted in our response to Q11 which underlines the primacy of the M54 / A5 corridor as the optimal and possibly only location which can accommodate the economic growth and provide the “step change” which is required.

12.1.2. Please see our related response to Q5 and response to Q14 for further explanation of how the inter-relationships have been disregarded.

13. Q13. What is the justification for the allocation of 30ha of employment land to meet some of the unmet need from the Black Country?

- 13.1.1. **No additional housing or employment land has been identified through the Shropshire Plan process to respond to the BCA needs identified.** The Council has not made any additional quantitative provision, nor any specific provision in terms of location, quality or size of any allocation to respond to the BCA need. **As such the 30ha provision which the Plan purports to make is not in effect made at all.** Please refer to Matter2 Q14 and Appendix 11 Q13 for explanation.

14. Q14. In overall terms, has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Local Plan? What has been the outcome of co-operation and how has this addressed the issue of jobs growth and employment land provision?

- 14.1.1. Our responses above explain how the Council has failed to follow the requirements of the duty to cooperate and how the outcome is a failure to provide employment land to meet BCP needs, including a failure to consider accommodating more than 30ha up to the total of the BCA need. Please also refer to the opinion of Matthew Reed QC at Appendix 1. There is also failure to make any provision for regional strategic needs as required by the WMCA and WM Land Commission.
- 14.1.2. The stated provision of 30ha of land for BCP needs is for appearances only. No amount of land has been identified specifically to meet BCP needs. No piece of land has been identified to meet BCP needs. The Plan has not responded in any way to the BCP need. The Council has made no assessment as it is required to do through the duty to cooperate of accommodating all of the BCA need or a larger proportion of it than currently proposed. The lack of consideration of accommodating alternative amounts and lack of any consideration of the benefits of so doing is reflected in the failures of the Sustainability Appraisal (SA). Please refer to our responses to Matter 1.
- 14.1.3. The Council agree that there are further unmet needs from the BCP and that the contribution of all LPA potentially able to contribute to meeting that need should be increased¹¹. The Council has not followed its own assessment in that regard. No additional provision is proposed. The Council's approach to revisit that need when the Plan is reviewed in accordance with the standard 5 year cycle, seeks to defer the matter of co-operation which is against PPG. The failures in the process of engagement, the lack of evidence, the failures of the SOCG and the inappropriateness of the proposed provision and future review all demonstrate failure in the duty to cooperate, and raise very similar issues to those which Inspector Crosby has found to be failures in Tonbridge and Malling.

¹¹ Statement of Common Ground Shropshire and ABCA July 2021 para 8.12

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Appendix 1

Opinion of Matthew Reed QC

**IN THE MATTER OF THE DUTY TO COOPERATE IN THE PREPARATION OF
THE SHROPSHIRE LOCAL PLAN**

OPINION

Introduction

1. I am instructed by Aardvark Planning Law, who represent Bradford Rural Estates Ltd (“BRE”), to give my opinion on whether Shropshire Council (“the Council”) has complied with the “duty to co-operate” under section 33A of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) in their preparation of the draft Shropshire Local Plan (“the SLP”).

Summary of Opinion

2. For the reasons given below, in my opinion:
 - (1) The duty to co-operate has not been complied with.
 - (2) Even if the duty is found to have been complied with, I consider there to be substantial soundness issues with the SLP under para. 35(a) of the National Planning Policy Framework (“NPPF”) in relation to the consideration of meeting cross-boundary needs.

Background

3. To ensure brevity, this Opinion does not set out the full background of the plan’s recent development.
4. The submission of the SLP for examination was preceded by a substantial process of plan preparation.
5. I will consider that process under the following headings:
 - (1) Strategic Sites Consultation (2019);
 - (2) First Pre-Submission Draft Consultation (2020);
 - (3) Second Pre-Submission Draft Consultation (2021);
 - (4) Submission of the SLP for examination (2021).

Strategic Sites Consultation (2019)

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6. As the fourth stage of the Council's Local Plan Review¹, the Council consulted on the Strategic Sites Consultation Document ("SSCD") from 1 July 2019 to 9 September 2019. The SSCD identified three "preferred strategic sites" (Clive Barracks, former Ironbridge Power Station and RAF Cosford). It also considered the proposal for a strategic allocation of land for a new settlement to the north of Junction 3 of the M54 ("Land at J3").
7. The SSCD stated that the Land at J3 was "currently subject to consideration but is not currently a preferred strategic site".
8. Section 3 of the SSCD addressed the potential strategic site at Land at J3. The importance of the opportunity was recognised at paras. 3.5 – 3.8. The SSCD referred (at para. 3.6) to the M54 Growth Corridor – Strategic Options Study (June 2019) carried out by Avison Young for the Council ("M54 SOS"). Land at J3 was discussed in depth at para. 4.43 onwards. Para. 4.53 stated:

"The Study recognises the substantial economic benefits that would arise from the development coming forward and its potential to help deliver Shropshire's growth ambitions."
9. At para. 4.62, the M54 SOS stated:

"The site is in a prime location relative to the motorway and rail network and is controlled by a single landowner who is engaged in the local plan review process. It thus provides Shropshire with a significant opportunity to deliver development to support economic growth and housing requirements."
10. At para. 3.18-3.19, the SSCD indicated that the potential requirement for the release of the Land at J3 from the Green Belt arises as a result of unmet need in the neighbouring Black Country.
11. At para. 3.26, the Council stated:

"Shropshire Council recognises that this proposal may represent a 'once in a generation' opportunity to meet cross-boundary needs, through delivery of nationally significant employment opportunities, high quality housing and a local centre to provide services, facilities and infrastructure as part of a planned new settlement within an important strategic corridor. However, given the likely scale of the proposal it is considered there are a number of significant issues which need further consideration ahead of the Council being able to prefer this land for development, such as:

 - The strategic scale of these proposals and mix of employment, residential and other uses;
 - Concerns about impacts on existing infrastructure, communities and environmental assets;

¹ The first stage was the Issues and Strategic Options Consultation between 23 January 2017 and 20 March 2017. The second stage was the Preferred Scale and Distribution of Development Consultation between 27 October and 22 December 2017. The third stage was the Preferred Sites Consultation between 29 November 2018 and 8 February 2019.

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- Justification for the release of Green Belt land – this is considered to be intrinsically linked with the assessment of the alternative options available to meet Black Country housing and employment needs; and
- Securing strategic infrastructure investment and cross boundary agreement with neighbouring authorities.”

12. The Council listed some of the further information required at para. 3.28:

“3.28 The further information required includes but is not limited to:

- Assessment of alternative options available to the Black Country for meeting the housing and employment needs arising in the Black Country;
- The outcome of the Black Country Green Belt review;
- Infrastructure capacity assessment to identify key impacts and investment requirements;
- Infrastructure funding;
- The views of neighbouring authorities, Government agencies and major infrastructure providers; and
- Further evidence to support the economic development context.”

13. The site promoters, BRE, and others, including the Association of Black Country Authorities (“ABCA”), submitted an extensive amount of information to address the Council’s request for further information in the SSCD.

14. The material submitted by the ABCA and BRE broadly fell under the following headings:

- (1) Evidence of the unmet need in the Black Country and the justification for Shropshire assisting to meet that need;
- (2) Issues of infrastructure capacity, requirements and funding for Land at J3;
- (3) Further evidence to support the allocation of Land at J3.

First Pre-Submission Draft Consultation (2020)

15. The Council conducted a consultation of a pre-submission draft of the SLP from 3 August to 30 September 2020. This was preceded by a report, which gained Cabinet approval on 20 July 2020, to authorise the consultation (“the July 2020 Report”).

16. Through approval of the July 2020 Report, the Council committed to the principle of accepting up to 1,500 dwellings from ABCA “as part of the Duty to Cooperate”, and “for these to be incorporated into Shropshire’s overall housing requirement up to 2038 and to be distributed in accordance with the overall Strategic Approach to the distribution of growth”. The 1,500 dwellings were not to be delivered by way of any further land allocations.

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Second Pre-Submission Consultation Draft (2021)

17. Between 18 December 2020 and 26 February 2021, the Council carried out a second consultation on a revised pre-submission draft SLP. This was preceded by another report to Cabinet (“the December 2020 Report”). On 7 December 2020, the Council agreed to the principle for up to 30 hectares of employment need from the ABCA as part of the duty to cooperate, to supplement the previous acceptable of up to 1,500 homes.
18. At para. 5.23, the December 2020 Report noted that “ABCA’s employment land supply provides around 305ha, leaving a shortfall of at least 263 hectares needing to be provided outside the Black Country Local Plan area”. The Council then stated as follows at paras. 5.24-5.25:

“5.24 Since July, the Council has further developed its consideration of economic need over the plan period, and an Economic Development Needs Assessment (EDNA) will be published alongside the Regulation 19 consultation. By way of early summary of this position, it is recognised that similar to the proposed housing requirement for the County, the proposed employment land provision of 300 hectares over the plan period is beyond the ‘baseline’ need scenario when looking at forecasted growth. This position is deliberate and responds to the Council’s desire to see a ‘step change’ in economic growth in the County over the plan period; a position advanced by the Economic Growth Strategy.

5.25 With this in mind, it is therefore considered reasonable and appropriate for the Council to supplement its ‘in principle’ offer of housing need with an ‘in principle’ offer to meet up to 30 hectares of employment land from ABCA. It is again considered that this need can be accommodated in a sustainable manner in line with the Local Plan’s proposed distribution of growth proposed in draft policy SP2, and would not require the identification of additional land in order to ensure its sustainable delivery. This offer is considered to respond effectively to Council’s legal obligations under the Duty to Cooperate and if agreed, will be incorporated into the emerging Statement of Common Ground between the two planning areas.”
19. Again, the provision of 30 hectares to ABCA has been taken from the headroom between the baseline need and the proposed provision, which exists because of the Council’s desire to see a “step change” in economic growth. No additional land is accordingly identified by the Council to reflect this cross-boundary provision.
20. ABCA responded to the consultation by letter dated 24 February 2021. ABCA said:
 - (1) Although the SLP’s provision of up to 1,500 homes attributed to meeting needs arising from the Black Country is supported, the “best-case scenario ... would leave the Black Country with a significant shortfall of approximately 14,550-16,500 houses, plus some further 5,000 homes added to this shortfall as a result of the new national method”. ABCA therefore stated:

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“We therefore request that the Shropshire Local Plan should recognize that there could continue to be a shortfall of land in neighbouring areas which could be accommodated within the Plan area. This must be recognised in the Plan as the key trigger for an early review of the Local Plan.”

- (2) Although the 30ha of employment land was welcomed in principle, the contribution would leave a “quantitative” and “qualitative” shortfall. As to the former, ABCA explained that the shortfall was between 263 and 500ha, with the contributions through the duty to cooperate being limited to 50ha in total. As to the latter, it was noted that:

“... the employment sites in Shifnal and Bridgnorth, given their location, and the functional relationship outlined above could be assumed to be capable of meeting needs arising in the Black Country. The size and accessibility of these sites from the motorway network may limit the range of occupiers who are likely to be attracted to them and so would be unlikely to be attractive to large scale and footloose inward-investment requirements. We note that the EDNA recognizes the proximity of the i54 development at Junction 2 of M54, the potential for this to draw further occupiers into the County, and that consideration will need to be given in regard to whether there will be enough demand to justify an additional development, in addition to that already proposed as part of the i54 extension (para 9.50).”

- (3) ABCA concluded by saying that they considered the SLP was responding to the duty to cooperate, “but further clarification is sought in terms of the employment land need”.
21. Walsall MBC and Dudley MBC, both members of ABCA, separately responded to the consultation by “objecting” to the SLP on the basis that it “still does not positively or effectively respond to cross-boundary strategic matters”. Both noted the scale of the quantitative and qualitative shortfall in employment provision.

Submission of the SLP for examination (2021)

22. As noted above, the SLP was submitted for examination in public by the Secretary of State on 3 September 2021.
23. Prior to this, in July 2021, ABCA and the Council entered into a Statement of Common Ground (“SoCG”). This was explicitly stated to be an SoCG between the Council and ABCA “and not between Shropshire Council and the individual local authorities who are members of ABCA”: para. 2.2. I note that ABCA are not themselves a local authority with whom the Council is under a legal duty to co-operate. They are a non-statutory association. Para. 2.2 rightly recognises the limitations of ABCA’s remit.

Legal framework

24. The Council has a statutory “duty to co-operate” in relation to the planning of sustainable development. Section 33A of the 2004 Act provides (so far as material):

“33A Duty to co-operate in relation to planning of sustainable development

(1) Each person who is—

(a) a local planning authority,

...

must co-operate with every other person who is within paragraph (a), ... in maximising the effectiveness with which activities within subsection (3) are undertaken.

(2) In particular, the duty imposed on a person by subsection (1) requires the person—

(a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken, and

(b) to have regard to activities of a person within subsection (9) so far as they are relevant to activities within subsection (3).

(3) The activities within this subsection are—

(a) the preparation of development plan documents,

...

so far as relating to a strategic matter.

(4) For the purposes of subsection (3), each of the following is a “strategic matter”—

(a) sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, ...

...

(6) The engagement required of a person by subsection (2)(a) includes, in particular—

(a) considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of activities within subsection (3),

...

(7) A person subject to the duty under subsection (1) must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.”

25. The guidance given under section 33A(7) is contained in the NPPF and the PPG (see *Sevenoaks District Council v Secretary of State for Housing, Communities and Local Government* [2020] EWHC). Paras. 24-27 of the NPPF provide (emphasis added):

“Maintaining effective cooperation

24. Local planning authorities ... are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.

25. Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans. They should also engage with their local

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communities and relevant bodies including Local Enterprise Partnerships, Local Nature Partnerships, ... , county councils, infrastructure providers, elected Mayors and combined authorities (in cases where Mayors or combined authorities do not have plan-making powers).

26. Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.

27. In order to demonstrate effective and on-going joint working, strategic policymaking authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency.”

26. These paragraphs reflect the ultimate objectives of the NPPF which must be achieved through the plan-making process.

27. Paragraph 11 requires that strategic policies in a plan should:

as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area [which under footnote 7 includes Green Belt land]; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

28. This objective is the essential requirement which informs the DtC discussions. The aim should be to provide for any needs that cannot be met within neighbouring areas (incidentally, the Council accepts – rightly - that the ABCA are neighbouring authorities for the purposes of DtC discussions – see the Housing Topic Paper, paragraphs 3.20-24) unless there are strong reasons for restricting the levels of development proposed (for example, because the land is in the Green Belt).

29. This approach is reflected in NPPF, para. 35(a) - the test for soundness includes a requirement for the plan to be “positively prepared”, which includes a strategy which as a minimum seeks to meet the area’s OAN but also “is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development”.

30. The only basis upon which it could be concluded that another neighbouring areas’ needs are not met is where it is “practical to do so” and consistent with achieving sustainable development.

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These requirements are directly referable to paragraph 11 of the NPPF which both define the approach to sustainable development and indicate what amounts to “practical” circumstances. In short, another neighbouring area’s needs should be met unless that is “impractical”, i.e., policies in the NPPF protecting assets or areas of “particular importance” provide a strong reason for restricting development.

31. NPPF para. 35(c) – the test for soundness also includes a requirement for the plan to be “effective”, which includes that it is “based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground”.
32. NPPF para. 61 provides: “In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for”. The phrase “taken into account” means, taken into account as set out in the NPPF; it is not to be considered in a vacuum.
33. NPPF para. 66 states: “Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period”. Paragraph 66 reiterates the objective that must be sought to be achieved by an authority and the parameters for doing so. The requirement is to provide for “any needs” that cannot be met in the housing requirement figure to the extent that they “can” be met: the “can” is a reference back to whether the needs can be met unless there is a strong reason arising from particular protected areas or assets for not meeting those needs.
34. Further guidance on the duty to co-operate is contained in the Planning Practice Guidance (“PPG”). Para. 12 of the section entitled “Plan Making” provides the following guidance on statements of common ground and the need to contain information about the distribution of needs:

“What information will a statement of common ground be expected to contain about the distribution of identified development needs?”

When authorities are in a position to detail the distribution of identified needs in the defined area, the statement will be expected to set out information on:

- a. the capacity within the strategic policy-making authority area(s) covered by the statement to meet their own identified needs;
- b. the extent of any unmet need within the strategic policy-making authority area(s); and

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c. agreements (or disagreements) between strategic policy-making authorities about the extent to which these unmet needs are capable of being redistributed within the wider area covered by the statement."

35. Para. 22 provides:

"Are strategic policy-making authorities required to reach agreement on strategic matters, and what should an authority do if they are unable to secure these agreements?"

Strategic policy-making authorities should explore all available options for addressing strategic matters within their own planning area, unless they can demonstrate to do so would contradict policies set out in the National Planning Policy Framework. If there they are unable to do so they should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their plans for examination. Authorities are not obliged to accept needs from other areas where it can be demonstrated it would have an adverse impact when assessed against policies in the National Planning Policy Framework.

Inspectors will expect to see that strategic policy making authorities have addressed key strategic matters through effective joint working, and not deferred them to subsequent plan updates or are not relying on the inspector to direct them. Where a strategic policy-making authority claims it has reasonably done all that it can to deal with matters but has been unable to secure the cooperation necessary, for example if another authority will not cooperate, or agreements cannot be reached, this should not prevent the authority from submitting a plan for examination. However, the authority will need to submit comprehensive and robust evidence of the efforts it has made to cooperate and any outcomes achieved; this will be thoroughly tested at the plan examination."

36. The guidance above is consistent with the terms of the NPPF when it is stated that "authorities are not obliged to accept needs from other areas where it can be demonstrated it would have an adverse impact when assessed against policies in the [NPPF]". The "adverse impact" is an impact assessed which is delineated by the NPPF – i.e. that which is identified in paragraph 11, where protected areas provide a strong reason for not providing for a neighbouring authority's area.

37. Para. 31 provides an important warning to local authorities:

"As the duty to cooperate relates to the preparation of the plan it cannot be rectified post-submission, so if the Inspector finds that the duty has not been complied with they will recommend that the local plan is not adopted and the examination will not proceed any further. The most appropriate course of action is likely to be for the local planning authority to withdraw the plan and engage in the necessary discussions and actions with other relevant local planning authorities and bodies."

38. What is required of a planning inspector in examining whether a local planning authority has performed its section 33A duty was spelt out by Patterson J in *R (Central Bedfordshire Council) v Secretary of State for Communities and Local Government* [2015] EWHC 2167 (Admin) at [50]:

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“To come to a planning judgement on a duty to co-operate involves not a mechanistic acceptance of all documents submitted by the plan-making authority but a rigorous examination of those documents and the evidence received so as to enable an Inspector to reach a planning judgment on whether there has been an active and ongoing process of co-operation. The key phrase in my judgment is “active and ongoing”. By reason of finding there were gaps as the Inspector has set out, he was not satisfied that the process had been either active or ongoing.”

39. The Court in *Bedfordshire* upheld the Inspector’s analysis which included his observation that satisfaction of the duty was connected to issues of soundness in so far as the right issues needed to be considered in discussions.
40. Cranston J expanded upon this in *R. (St Albans City and District Council) v Secretary of State for Communities and Local Government* [2017] EWHC 1751 (Admin), at [51]:

“... once there is disagreement, I would add even fundamental disagreement, that is not an end of the duty to cooperate, especially in an area such as housing markets and housing need which involve as much art as science, and in which no two experts seem to agree. ... the duty to cooperate is active and on-going, and that to my mind means active and on-going even when discussions seem to have hit the buffers.”

Inspectors’ Assessments of the Duty to Cooperate

41. In a recent decision by Inspectors Birkinshaw and Troy dated 7 May 2020, the Chiltern and South Bucks Local Plan was recommended for non-adoption; the essential issue related to the provision of a neighbouring (Slough’s) borough’s unmet housing needs. The Inspectors noted the relationship between the purpose of discussions and the requirements of paragraphs 11 and 35 of the NPPF, as follows:

“Need for Agreement?”

21. The DTC does not place a requirement on local planning authorities to agree on all strategic cross boundary matters. The PPG10 confirms that where agreements cannot be reached, it should not prevent a plan from being submitted for examination.

22. Nevertheless, in such circumstances the authority “...will need to submit comprehensive and robust evidence of the efforts it has made to cooperate and any outcomes achieved; this will be thoroughly tested at examination.” Based on the evidence provided we are not convinced that the Councils have actively engaged with SBC on the issue of unmet housing needs, or adequately demonstrated what outcomes this engagement has resulted in. For example, the Councils do not appear to have actively explored options for growth around Slough, as might be expected as part of considering reasonable alternative strategies in the Sustainability Appraisal. The fact that the draft Statement of Common Ground was sent to SBC in December 2019, three months after submission, only serves to emphasise a lack of constructive dialogue on this key, strategic cross-boundary issue.

23. In response to our Initial Questions the Councils advised that they are “...not in a position to accommodate Slough’s request at the present time.” Essentially, “If an

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authority cannot meet its own needs, then it cannot be considered to be in a position to provide assistance for anyone else. This is not considered to be a complex equation.”

24. The Green Belt is clearly a significant consideration in deciding how best to deal with SBC's unmet housing need. The PPG11 advises that local planning authorities are not obliged to accept needs from other areas where it can be demonstrated that doing so would have an adverse impact when assessed against policies in the Framework. This reflects paragraph 11 of the Framework, which states that strategic policies should provide for objectively assessed needs for housing, as well as any needs that cannot be met in neighbouring areas, unless the application of policies in the Framework provide a strong reason for restricting the scale, type or distribution of development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

25. However, there does not appear to have been any detailed analysis as part of the Plan's preparation to determine whether or not the adverse impacts of contributing towards SBC's unmet housing needs would significantly and demonstrably outweigh the benefits. Furthermore, the Framework's policies do not prevent Councils from amending Green Belt boundaries where there are exceptional circumstances in accordance with paragraph 136. The submission version Local Plan actually proposes to release land from the Green Belt for 1,000 homes, 12,000 square metres of office floorspace and a community hub including a new primary school near to Slough at Iver Station (Policy SP BP11). Land is also proposed to be released from the Green Belt adjacent to Taplow Station for around 4,000 square metres of office floorspace (Policy SP BP14). The Green Belt has therefore not precluded land from being identified for development in the submitted Plan.”

42. In the earlier decision in the Central Bedfordshire examination in 2015 (the subject of the failed challenge by the Council in the *Bedfordshire* case above), Inspector Cook identified, in a similar way to Inspectors Birkinshaw and Troy, the relationship between the objectives of the plan-making process and the duty to cooperate, as follows:

“Furthermore, there is no evidence that the Council has considered the implications of meeting the unmet need of Luton in full. As many participants pointed out, a reasonable alternative for assessment through the sustainability appraisal process would have been an additional option with a housing figure somewhere between those of options 3 and 4. Ultimately this is a soundness point given the drafting of Framework paragraph 182. However, this also goes to the Duty since this has been an issue in contention between the two authorities since October 2010 at the latest and is thus indicative of a failure of the Duty process to influence the Plan since no accommodation on this important cross-boundary issue has been reached”.

43. Similarly, in the Castlepoint examination in 2016, Inspector Smith noted that the DtC must be couched in the aims of the NPPF as to what a plan should provide:

“13. Indeed, the impression gained is that the Council believed that continuing activities under the DtC would enable the issue of outstanding housing need to be 'fixed'. However, that is looking at things the wrong way round. Rather engagement under DtC should seek to bring about the outcome set out in paragraph 179 of the NPPF. There is no duty to agree (PPG ID 9-003-20140306). However, whilst it might be firmly in view now, there is no clear evidence that consideration of this admittedly difficult issue was attempted as part

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of the preparation of the New Local Plan. Within that process it has been treated as an 'afterthought'."

44. Paragraph 179 of the NPPF stated at that time: "*Joint working should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas – for instance, because of a lack of physical capacity or because to do so would cause significant harm to the principles and policies of this Framework*". Inspector Smiths' analysis is, therefore, consistent with the observations of the other Inspectors.

Analysis

(a) Duty to Cooperate

45. In my view, for the following reasons, the DtC has not been satisfied.

Incorrect basis for discussion

46. First, there is a systemic error in the discussions which have been had to date with ABCA. As the various Inspectors' decisions set out above indicate, the purpose of discussions carried out under the DtC must be focussed on the correct objectives of the NPPF. If the DtC discussions focus on the wrong question, those discussions will necessarily be flawed.
47. Paragraph 11 of the NPPF sets out what (in part) a local plan must be required to provide to achieve sustainable development, namely, in respect of strategic policies, that neighbouring needs which cannot be addressed in that authority's area should be met **unless** either, in respect of (for example) Green Belt, there is a strong reason for not meeting those needs or the adverse effects of delivering those needs significantly and demonstrably outweigh the benefits.
48. The Council has patently failed to take a proper approach in its DtC discussion with ABCA because, as the Housing and employment topic papers state (paras. 3.72 and 6.63 respectively), the Council considered there was no "methodology" for discussion under the DtC, only that it was required to "take into account" the needs of another authority. This approach was fundamentally in error. The delivery of housing and employment within Shropshire and the ABCA area fell under the strategic policies of the plan, as the SLP acknowledges (see paras. 3.7 and 3.18). Rather than simply take the question of need into account, it was necessary to examine with ABCA whether either of the provisos under paragraph 11 meant that less than the full need should be provided and if so, how much less. On its own admission, this was not the issue being considered under the DtC discussions.
49. Rather than consider whether there was a strong reason for not delivering all of the relevant need, the Council discussed the issue from the perspective of whether contribution was an

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- appropriate one. There is no suggestion, nor any evidence, that it had considered the effects of delivering the whole of the ABCA's unmet needs or what level it could sustainably provide having looked at lesser levels of provision. In order to properly discuss the level of provision which should be made, the Council had to have evidence about the effects of doing so on, for example, the Green Belt, and then an assessment of the relative benefits and disadvantages against such levels of harm – there is no evidence of this having been undertaken and subsequently forming the basis of discussions with ABCA.
50. Rather, the discussions focussed on the question of what would be an appropriate proportion to deliver based upon migration and then, apparently, a number of other issues, namely (para. 3.113 housing topic paper and para. 6.77, employment topic paper):
- a. The proposed spatial strategy for the level and distribution of development across Shropshire;
 - b. The interplay between the proposed spatial strategy and any proposal to accept a portion of unmet housing need arising within the Black Country;
 - c. The known constraints that exist in Shropshire, particularly those elements of Shropshire in closest geographical proximity to the Black Country, including Green Belt;
 - d. The known opportunities that exist in Shropshire;
 - e. The relationship between Shropshire and the Black Country (including the component Local Planning Authorities which make up the Black Country) – with particular regard given to such factors as level of proximity, migration patterns, commuting patterns, TTWA's and transport links;
 - f. The extent of the unmet housing need forecast to arise within the Black Country;
 - g. The potential for other Local Planning Authorities to positively contribute to meeting the unmet housing need forecast to arise within the Black Country, particularly those Local Planning Authorities within the same HMA and/or FEMA as the Black Country Authorities and/or with significant Brownfield Land opportunities; and
 - h. The need to 'future proof' any proposed contribution, recognising that the review of the joint Black Country Local Plan is ongoing and that not all Local Planning Authorities which receive internal migrants from the Black Country may be able to make an appropriate contribution."
51. These various issues were considered in the context only of whether "the unmet housing need forecast to arise within the Black Country that could be appropriately and sustainably accommodated within Shropshire" (para. 3.112). This discloses the essential error of approach on the part of Shropshire in its discussions with ABCA: from this description, there is no doubt that Shropshire had not undertaken its discussions on the basis of whether the Green Belt provided a strong reason for not delivering all of the relevant needs; or that the adverse effects of delivering the need demonstrably outweighed the benefits as set out in para. 11.

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52. Moreover, the factors which had been apparently taken into account, properly understood, indicated that more provision should be made:
- (1) In relation to the spatial strategy, the plan identified specifically the need for the delivery of growth within the M54 corridor.
 - (2) The interplay between that strategy and accepting housing need or employment need was plainly positive by both providing for ABCA's need and achieving the growth ambitions of the Council.
 - (3) The Green Belt was a known constraint but was accepted as not being an in-principle objection to development since (a) the plan had itself proposed delivery of the Council's own needs on Green Belt land; and (b) the Council had acknowledged the potential for the delivery of land at junction 3 of the M54 to be justified under exceptional circumstances.
 - (4) The relationship between Shropshire and the Black Country was already accepted.
 - (5) The extent of the unmet need was, and remains, massive.
 - (6) This very considerable unmet need existed, even after account was taken for the potential of other local planning authorities to deliver housing or employment provision.
 - (7) The future proofing of any proposed contribution would indicate the need to provide greater levels of housing
53. Turning to the Green Belt issue in more detail, it is apparent from the Green Belt topic paper that no assessment was made of the effect on the Green belt of delivering all or a significant proportion of ABCA's needs. In terms, it is stated:

"8.26. Specifically, within the draft Shropshire Local Plan it is proposed that around 1,500 dwellings and around 30ha of employment land will be accommodated in Shropshire during the proposed Plan period to 2038, as contributions to the forecast unmet needs arising in the Black Country. There is recognition that in accepting this level of unmet need from the Black Country Authorities, this would complement the proposed 'urban focussed' strategy set out in earlier iterations of the Local Plan Review during the Regulation 18 consultation stages.

8.27. The proposed contributions to unmet housing and employment needs are not proposed to be met on a specific site allocation(s) or within a specific settlement(s), but rather this unmet housing need would be incorporated within the Shropshire Local Housing Need and met in accordance with the proposed strategy for the distribution of development already advanced during the earlier stages of plan preparation at Regulation 18.

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8.28. As such, the decision to seek to accommodate a proportion of the unmet housing and employment needs forecast to arise within the Black Country was not the principal factor in concluding that exceptional circumstances existed to justify the release of land from the Green Belt in Shropshire.”

54. Translated, this means that no further analysis was undertaken about what the effects of greater amounts of housing or employment would be on the Green Belt.
55. As a result, the DtC discussions proceeded on a fundamentally incorrect basis which meant that the ultimate conclusion on the delivery of housing and employment for ABCA’s purposes was both inadequate and flawed.

No Evidence of any principled basis for discussion

56. Second, on a purely evidential basis, and even assuming that matters set out in the housing and employment topic papers set out an adequate basis for DtC discussions in principle, there is no evidence that those matters were actually what the Council discussed. That basis was not set out in the DtC compliance statement or the response of ABCA.
57. The mere fact that the SoCG has been entered into between ABCA and the Council does not – of itself – determine whether the duty to cooperate has been complied with. As the case law above demonstrates, the planning judgment for the inspectors on whether the duty has been complied with does not involve “a mechanistic acceptance of all documents submitted by the plan-making authority but a rigorous examination of those documents and the evidence received so as to enable an Inspector to reach a planning judgment on whether there has been an active and ongoing process of co-operation” (emphasis added). It is necessary for the inspectors to look into the substance of the process.
58. In the absence of clear evidence that any of the matters said to form the basis of discussions took place in the manner indicated in the topic papers, the reasonable conclusion must be that it has not been established that meaningful discussions between ABCA and the Council have taken place.
59. Consistently with the duty to co-operate being a duty to “*engage constructively, actively and on an ongoing basis*” (section 33A(2)(a) of the 2004 Act), in my view the Council has not presented robust evidence for offering only very limited cross-boundary support in this case, and failing to consider the alternative of greater provision.

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60. At the Tonbridge and Malling Borough Council examination, the lack of minutes to justify the assertions made was a critical issue for considering compliance with the DtC. At paragraph 23 of the report, Inspectors Crosby and Fleming stated:

“It seems that regular meetings were held between the Council and SDC during the preparation of the Council’s Plan, but there is no evidence that unmet housing need in SDC was discussed at these meetings and no meeting minutes have been provided to evidence that housing needs were discussed. The Council say that the discussion was predominantly about ‘constraints’ to meeting housing needs but no minutes of any of these meetings have been produced as evidence of what was actually discussed. Consequently, there is no evidence before us, that these meetings were used for constructive and active engagement in an attempt to resolve the strategic matter of unmet housing need and maximise the effectiveness of plan preparation.”

61. Further, as para. 22 of the PPG “Plan-making” section states:

“Authorities are not obliged to accept needs from other areas where it can be demonstrated it would have an adverse impact when assessed against policies in the National Planning Policy Framework.

... the authority will need to submit comprehensive and robust evidence of the efforts it has made to cooperate and any outcomes achieved; this will be thoroughly tested at the plan examination.”

Fundamental issues in discussion

62. Third, the factors which were apparently relied upon by the authorities to guide discussions could not reasonably justify the conclusion that further provision should not be made. It is apparent from the employment and housing topic papers that the starting point for determining the amount of housing and employment land were migration levels. However, there are a significant number of problems with reliance on this factor:

- (1) The level of current migration could not provide an effective constraint on what level of need should be provided to meet future aspirational levels of housing. There was no evidence to show that an increase in housing levels beyond the existing migration levels would not practically meet ABCA’s needs – i.e., that existing residents of the ABCA authorities would not occupy housing to a level beyond existing migration levels.
- (2) As Savills show in their hearing statement for matter 2, there are fundamental difficulties with the migration analyses – see sections 4 and 5.

63. Additionally, there is a specific issue which bears on the adequacy of discussions between Shropshire and ABCA in relation to employment matters. As explained by ABCA, Dudley MBC and Walsall MBC, there are serious qualitative issues in the commitment to meet some cross-boundary needs by the SLP’s proposed allocations. In short, none of the needs will be met on

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sites which would be anywhere near as relevant and supportive to the Black Country as Land at J3, which is ideally placed to actually meet Black Country needs in practice. It is not enough to simply allocate numbers in non-specific locations and ignore where that provision will actually be on the ground. There was no apparent discussion on the qualitative provision of employment land to meet ABCA's specific requirements.

Non-compliance with Guidance on the content of discussions

64. The hearing statement on matter 2 produced by Savills sets out (at section 8) how the content of the DtC compliance documents does not comply with relevant national guidance. This failure compounds the defects of approach identified above.

Review

65. Before dealing with the question of soundness, there is a particular issue between the Council and ABCA on the need for an early review which deserves comment. As a starting point, ABCA's assessment as to whether adequate provision is made for the black country is apparently predicated upon the requirement to provide a review. This would, if correct, be an effective acknowledgement that the provision in the current plan is insufficient. It follows that, if a review is not a proper means of dealing with the need issue in question, then ABCA's position would be one of objection based upon a failure to produce an effective plan.
66. The Council's position is that a review is unnecessary and the usual 5 yearly review process is sufficient.
67. The clear position in the guidance is that, if there is a need which exists now, meeting that need should not be deferred. This is clear both in the NPPF and the PPG, as set out above (at paras. 71-75). There is no adequate or proper justification for delaying satisfaction of needs which are current, clear and accepted.

(b) Soundness

68. The NPPF, para. 35(a) states that the test for soundness includes a requirement for the plan to be "positively prepared", which includes a strategy which as a minimum seeks to meet the area's OAN but also "is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development". The "justified" test – "an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence" is also reference.

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69. The reference in paragraph 35(a) to the ‘practicality’ of meeting a neighbouring authority’s needs is a reference back to the requirements of paragraph 11, which will determine what is practical or not.
70. On the basis of the matters set out in the housing and employment topic papers, and as detailed above, there has been no adequate assessment of these principal policy tests.
71. In particular, there has been no adequate assessment of the degree to which ABCA’s housing and employment needs should not be delivered in Shropshire on either of the bases set out in paragraph 11. As a result, the agreed figures between ABCA and the Council on employment and housing cannot be regarded as either justified or positively prepared.
72. The question of whether the plan is “positively prepared” and therefore sound – and the potential for further practical and sustainable meeting of cross-boundary needs – is bound up with the consideration of exceptional circumstances for release of Land at J3 from the Green Belt.
73. There is nothing as a matter of law to stop the meeting of cross-boundary need being sufficient in itself to amount to exceptional circumstances. However, the “exceptional circumstances” justification for Land at J3 is premised upon more than simply meeting the needs of the Black Country. The evidence indicates that Land at J3 would deliver significant benefits in terms of supporting growth and investment in a strategic location such as the M54 corridor and this would make a significant contribution to the future growth of Shropshire and the wider West Midlands region as a whole.
74. It is important also to recognise that the justification of meeting cross-boundary needs in any exceptional circumstances test will depend to some extent on the scale of the cross-boundary shortfall, which is very substantial in this case.
75. In my view, the guidance in para. 22 of the PPG “Plan-making” section on avoiding “adverse impacts” does not mean that meeting cross-boundary needs can never entail, for example, the release of Green Belt (or the loss of any other land subject to a national designation referred to in the NPPF). Otherwise, cross-boundary needs would never (or very rarely) be met. Instead, what it demonstrates is that the duty to cooperate is bound together with the assessment of Green Belt exceptional circumstances for the Land at J3. The finding of exceptional circumstances to justify Green Belt release would in effect mean that there is no “adverse impact” caused by meeting the Black Country needs when assessed against the NPPF.

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Conclusion

76. For the reasons given above, in my opinion, having regard to the matters referred to above, the examining inspectors ought to find under section 20(7B)(b) of the 2004 Act that, in all the circumstances, it would not be reasonable to conclude that the duty has been complied with.
77. Even if the duty is found to have been complied with, I consider there to be substantial soundness issues with the SLP under para. 35(a) of the NPPF in relation to the consideration of meeting cross-boundary needs.

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31 May 2022

Appendix 2

Post Regulation 19 Consultation - Council Evidence

1. Brief summary

GC4 Council response to ID1 and ID2

- 1.1.1. The Council response to ID1 paragraph 6 is misleading. It should refer to the outstanding objections of ABCA, Walsall and Dudley to the duty to cooperate and the response of the Plan to addressing Black Country Authority (BCA) unmet needs.

GC4g Green Belt Topic Paper

- 1.1.2. No assessment is made of the merits of release of different green belt site releases against each other. Instead, there is only assessment of the area of green belt release appropriate at each location it is proposed. There is no evidence of the assessment of alternatives to the proposed release of green belt for general Shropshire Strategic needs. There is no assessment of making specific provision for BCA needs, and no assessment of accommodating all or more of the BCA need.

GC4h Housing Strategy

- 1.1.3. Includes an action of ensuring there is enough housing to enable business to attract and retain the local workforce they need. The strategy is aligned with Shropshire's Economic Growth Strategy 2017 (**SEGS**) to ensure housing delivery supports economic growth, and encourages in migration of skilled workers. This is central to the mutual benefits of planning to meet BCA needs through the duty to cooperate.

GC4i Housing Topic Paper

- 1.1.4. Provides retrospective justification for the amount of BCA housing need accepted and demonstrates that the amount of BCA housing need to accept was not considered with the BCA and there was no assessment of accepting all or a greater proportion of BCA need. Acknowledgement of BCA unmet need as relevant strategic matter (3.24). Acknowledgement of the BCA forecast unmet housing need being 28,239 dwellings (3.29 figure 5), and acknowledgement of extent of potential other cross boundary provision and hence residual unmet need (3.32, 3.39). Conclusion of a clear relationship between Shropshire and the Black Country in respect of significant migration flows in each direction, significant commuting flows in each direction, overlapping travel to work areas, and strong transport links in strategic corridors. All matters relevant to the provision to be made in accordance with the duty to cooperate.

GC4n Employment Strategy Topic Paper

- 1.1.5. Provides retrospective justification for the amount of BCA employment need accepted and demonstrates that the amount of BCA employment need to accept was not considered with the BCA and there was no assessment of accepting all or a greater proportion of BCA need. The Employment Strategy Topic Paper (ESTP) acknowledges that the Plan should seek to deliver the SEGS priorities. It states that the preferred employment land requirement is to deliver balanced growth which will pursue the aspirations of SEGS. ESTP states the delivery of 'step change' will affect policies and allocations in the Plan that seek to influence the pattern of development (3.35). The Council will seek to understand the regional economic growth objectives being brought forward by WMCA, Shropshire's role within those objectives and how the County can deliver on those objectives and support this regional strategy (6.41). Confirms the economic strategic priorities for the Plan, which it appears the Plan strategy has not had regard to.

EV041 Statement of Common Ground with ABCA

- 1.1.6. The SOCG acknowledges that it is made between the Council and ABCA (a non-statutory association) and not any of the individual BCAs. The SOCG was first produced and published in July 2021 immediately prior to the Council decision to submit the Plan for examination. The SOCG is with a single party and does not include any local planning authority other than the Council which could have a role to play in meeting the BCA needs. The SOCG does not set out the methodology to be followed, or a programme for co-operation, reflecting the fact that it has been retrospectively written. The SOCG contains no evidence of the process of co-operation, it merely documents a result. The SOCG provides no evidence of positive engagement, effective or ongoing co-operation. The SOCG itself and the process of co-operation it presents both fall substantially short of the statutory and PPG requirements and consequently do not provide evidence that the duty to cooperate has been complied with.
- 1.1.7. Both the Council and ABCA consider that further BCA needs beyond those agreed to be provided for should be considered through a review of the Shropshire Plan. They disagree about the timing and specific accountability of that process. Both the Council and ABCA therefore acknowledge there is a significant additional unmet need and seek to defer it to a subsequent plan review in contravention of NPPF and PPG guidance.

EV041.01 Correspondence from ABCA 12 July 2018

EV041.02 Correspondence from ABCA 8 February 2019

EV041.03 Correspondence from the Council to ABCA 26 April 2019

EV041.04 Correspondence from Wolverhampton (ABCA) 13 May 2019

EV041.05 Correspondence from ABCA 30 September 2019

- 1.1.8. Correspondence which comprises the principal evidence of the exchanges between the Council and BCA

EV042 Duty to Cooperate Statement of Compliance September 2021

- 1.1.9. The Council accepts that it has a role to play in providing for BCA housing and employment needs of 28,239 and 210ha respectively. The statement records that the Council has proposed to provide for 1,500 dwellings and 30ha of employment land to be incorporated into the strategic approach for the distribution of development. It is stated that these offers follow positive engagement and duty to cooperate discussions, but there is no explanation or evidence of that engagement or discussions and no explanation of why the offers were made in the amounts they are. There is no suggestion that at any point the Council considered whether to accommodate all or more of the BCA need. There is no evidence of cooperation with BCA to determine how the quantitative need which has been accepted should be provided for to ensure that it meets the qualitative requirements of that unmet need.

EV043 Shropshire Economic Development Needs Assessment Final Report April 2021

- 1.1.10. The EDNA references the Shropshire Skills Evidence Base, which identifies Shropshire has more resident workers than jobs, and so has net out migration for employment, however in commuting rose more rapidly than out commuting in the decade to 2011. Out commuting is greatest for the highest earners. There is a marked differential between resident and workplace earnings within Shropshire¹². The same evidence identified that 15% of all Shropshire businesses have a skills gap.
- 1.1.11. EDNA assesses that 34,939 residents commute out of Shropshire to work, whilst 29,274 workers commute into Shropshire. The top 5 destinations for out commuting are Telford, Wolverhampton,, Wrexham, Powys and Birmingham. The top 5 origins of commuters into Shropshire are Telford, Powys, Wrexham, Herefordshire and Wolverhampton¹³. Having assessed a range of factors to define the FEMA, EDNA concludes that the FEMA is predominantly self-contained but has strong labour market linkage with the BCA¹⁴. EDNA concludes that from a practical perspective the inter-relationship between Shropshire, Telford and the Black Country in terms of economic functionality suggests that close cooperation on employment land supply balance is recommended going forward¹⁵.
- 1.1.12. EDNA also references the ELR, highlighting employment land opportunities as being strategic (within key nodes on strategic corridors including the M54) significant local and other local. Other findings of the ELR highlighted, include that Shropshire should drive forward ambitious growth plans and deliver a balance of strategic and local sites including safeguarding locations within the green belt¹⁶.
- 1.1.13. Reporting on the M54 Growth Corridor Strategic Options Study, EDNA highlights that the M54 is a strategic corridor for both employment and housing. EDNA references the M54 Study which concludes that the M54 corridor is extremely well placed to deliver growth within the key sectors identified in the SEGS, and that some or all of the five sites assessed should be released for development¹⁷.

¹² Shropshire Economic Development Needs Assessment (December 2000) para 2.58

¹³ Ibid para 4.35

¹⁴ Ibid para 4.53

¹⁵ Ibid para 5.54

¹⁶ Ibid para 2.60

¹⁷ Ibid para 2.71 – 2.72

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- 1.1.14. EDNA includes market analysis provided by JLL. That market analysis finds that the demand for industrial and logistics accommodation is highest in the M54 and A5 corridors. EDNA raises a concern that locations on the M54 corridor in Telford (J4 and J5) and Wolverhampton (J2) are attracting development out of Shropshire as there is a lack of comparable opportunities within Shropshire¹⁸.
- 1.1.15. EDNA concludes that a flexible and responsive policy framework is required which considers the opportunities and not just the quantitative need. The growth opportunities of the M54 corridor are identified specifically in this regard. The assessments of the EDNA should have informed the consideration of how much of the unmet BCA need to accept, and the location of strategic allocation(s) to meet those needs.

Authority Monitoring Report Base Date 31st March 2020

- 1.1.16. In accordance with the Local Planning Regulations 2012 (as amended) regulation 34 (6) requires the AMR to give details of the actions taken during the period covered by the AMR in respect of co-operation under PCPA 2004 s33A. The period covered by the AMR is not stated. The base date of 31 March 2020 appears to be the end date for all data presented but the Planning Policy Context section refers to Regulation 19 consultation in February 2021 and Local Development Scheme March 2021. The span of the AMR therefore appears to be from April 2019 to March 2021. The Council has informed us that it did not produce an AMR for the previous year. This AMR is therefore the only AMR covering the period of the Plan evolution where co-operation was purported to be taking place.
- 1.1.17. Page 22 of the AMR states that the Council “undertook effective joint working” but provides no detail whatsoever about that joint working. The AMR states that SOCG are being prepared to document the process and outcome of this engagement. This highlights that the SOCG have only been written after any process of co-operation has concluded. The AMR does not provide the information required by the Local Planning Regulations and underlines again the lack of evidence of effective ongoing co-operation.

¹⁸ Ibid para 7.81

Appendix 3

Post Regulation 19 Consultation - ABCA Evidence

1. Brief summary

West Midlands Strategic Employment Sites Study May 2021

- 1.1.1. The West Midlands Strategic Employment Sites Study (WMSESS) concludes that there is 7.41 years supply of strategic employment sites (sites >25ha which could attract nationally or internationally mobile business activity) and an urgent need for additional strategic employment sites to be brought forward to provide a deliverable pipeline, noting the very substantial lead in times for promoting and bringing forward such sites .
- 1.1.2. Although Shropshire is outside the administrative area of the commissioning Local Enterprise Partnerships, the WMSESS considered land north of the M54 east and west of the A435 (BRE site at J3) as part of an exercise to identify capacity at motorway junctions. The WMSESS states “the M54 corridor is likely to have a future role”. The M54 Growth Study is referenced and the potential of land at J3 to contribute to the future supply of strategic employment sites is noted . Accordingly the WMSESS identifies a need for strategic sites and finds that the location of M54 J3 has a role to play in meeting that need.

ABCA representations to Shropshire Regulation 19 consultation 24 February 2021

- 1.1.3. ABCA state that the most recent engagement between itself and the Council was ABCA’s response to the Regulation 18 consultation on the Plan. This indicates that there has not been constructive, active and ongoing co-operation between the Council and ABCA [at end, not beginning – it suggests that ABCA said this]. The letter refers to ABCA’s concerns at the previous stage being the need for the Plan to respond positively to BCA needs to address the duty to cooperate.
- 1.1.4. ABCA make clear that having undertaken an update of their Urban Capacity Review, their green belt assessment and landscape sensitivity assessment (all previously requested by the Council to justify the release of the strategic site at J3) plus conservation and ecology surveys [sentence]. There is no additional land to be found to meet requirements in the Black Country. ABCA’s expectation is of continued shortfall after the Plan’s acceptance of 1,500 homes and 30ha of employment land. The shortfall after all other potential contributions (10,500 – 12,500) are factored in has increased to 19,550 – 21,550 homes due to the standard methodology imposed uplift of 35% for Wolverhampton. There remains therefore a very substantial residual unmet housing need to be addressed through the duty to cooperate.
- 1.1.5. ABCA identify an unmet need for 263 – 500ha of employment land (depending upon growth scenario employed). The residual shortfall after all potential contributions (50ha) is 213 – 450ha.

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- 1.1.6. ABCA request that the Plan acknowledge the expected additional need from the BCA, and object to the omission of a specific review mechanism in the Plan to respond to additional BCA needs. A specific review mechanism to address BCA needs is stated to be necessary for the Plan to be sound. There is therefore an outstanding objection from ABCA to the response of the Plan to address need through the duty to cooperate. This should have been referenced by the Council in GC4.
- 1.1.7. ABCA advise that individual BCA may supplement the ABCA representation with their own views.
- 1.1.8. Whilst ABCA state that they consider the Plan is responding to the duty to cooperate, there is no evidence that the Council is responding to the duty, as it is not engaging constructively and actively on an ongoing basis to consider how the whole of the BCA need can be addressed – not clearly setting out the position.

Walsall representations to Shropshire Regulation 19 consultation 25 February 2021

- 1.1.9. The representation is stated to be the formal representation of Walsall Council. It re-states that the most recent engagement with the Council was ABCA Regulation 18 representations, again underlining the lack of constructive active and ongoing engagement required by s33A.
- 1.1.10. Objections already submitted by ABCA are clearly framed in the context of the duty to cooperate. Walsall state objection to the Plan and its strategic approach as it does not positively or effectively respond to cross boundary strategic matters. These further objections of Walsall are stated to be duty to cooperate issues[is that right?]. This should have been acknowledged by the Council in GC4.
- 1.1.11. Walsall identify the residual shortfall of 287 – 565ha employment land and 14,500 – 16,500 homes. Walsall request that in total the Plan provide 4,500 homes and significantly more than 30ha for BCA needs. Walsall confirm their continued support for allocation of the strategic settlement at J3 to provide 75ha of employment and 3,000 homes.
- 1.1.12. Walsall reference the continuing need for strategic employment sites to be allocated, as identified by the WMSESS 2015, West Midlands Land Commission 2017, Secretary of State in approving the West Midlands Strategic Rail Freight Interchange DCO in May 2020, and the emerging update to the WMSESS.

Dudley representations to Shropshire Regulation 19 consultation 3 March 2021

- 1.1.13. Dudley's separate Regulation 19 representation mirror those of Walsall. The objections are the same and the support for the strategic settlement at J3 as a significant potential contribution to meeting the unmet needs is promoted and supported in the same terms as Walsall.
- 1.1.14. Although the Dudley letter is dated a few days after the close of the Regulation 19 consultation period and is therefore regarded by the Council as not duly made, the matters of concern raised relate to the operation of the duty to cooperate. As that is an ongoing obligation there is no end date, and the Council should have full regard to the matters raised, and Dudley's objections should have been notified in GC4.

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Black Country Plan Review Regulation 18 Consultation Draft August 2021 and evidence base

- 1.1.15. The evidence provided by the Black Country Authorities (BCA) is directly relevant to evidencing: unmet cross boundary need; the assessment of ability to meet needs within the Black Country; and the level of co-operation which has taken place between the Council and BCA.
- 1.1.16. The Draft Black Country Plan (BCP) states land requirements to be exported through the duty to cooperate are: 28,239 homes and 210ha employment.

Black Country Regulation 18 Duty to Cooperate Statement July 2021

- 1.1.17. The DTC Statement details the offers for housing and employment land which have all to be confirmed through plan processes. Maximum potential contributions identified are up to 14,750 homes leaving a residual shortfall 13,500 homes and up to 102ha of employment land leaving a residual shortfall of 108ha.
- 1.1.18. Appendix 3 of the DTC statement lists dates of meetings with the Council [how many]. The only information about the subject matter, process or outcome is stated to be the ABCA representations to the Plan and the BCP evidence base.

Shropshire response to ABCA letter 12 July 2018

- 1.1.19. A bundle of redacted correspondence received by ABCA in response to its 12th July 2018 letter requesting co-operation to meet needs was published with the BCP consultation. It includes an undated email from the Council as referenced in EV041.02.
- 1.1.20. The Council states that it “acknowledges there exists a functional economic relationship between Shropshire and the Black Country, we recognise that there is merit in further discussion about the potential for Shropshire to help meet cross boundary needs from the Black Country . As explained above, our preferred sites consultation in October will address both our currently identified housing needs and provide for the delivery of a housing requirement greater than this need. Therefore any other strategic proposals which have been promoted through the current Local Plan Review process would help us to provide a non-delivery allowance for Shropshire and might also provide headroom to cater for cross boundary need”
- 1.1.21. The Council also stated; “We would welcome further discussions in relation to this potential as our work progresses, particularly in relation to the M54 corridor”.
- 1.1.22. Having accepted that there is merit in providing for BCA needs, the requirement set by NPPF 11b is to meet the needs of neighbouring areas, rather than a proportion only without justification for that proportion.

ABCA duty to cooperate correspondence 4 August 2020

- 1.1.23. A renewed request from ABCA for co-operation in meeting needs and an update on the evidence base for the BCP and investigation of alternative sources. Ongoing evidence of the need for co-operation.
- 1.1.24. ABCA duty to cooperate correspondence – update on outstanding unmet need 26 April 2022

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- 1.1.25. The most up to date assessment of potential supply to meet BCA needs issued to all neighbouring LPA. Even with all potential contributions being maximised and being exclusively for BCA benefit, there remains residual unmet need for 11,500 homes and 108ha of employment land.
- 1.1.26. A series of evidence base documents published alongside the BCP consultation evidence the development needs and the assessment that has been made of the urban area (twice) and the assessment of green belt to find alternative locations to meet BCA needs. The evidence demonstrates that BCA has appropriately investigated the ability to meet its needs within its boundaries including through release of green belt land.
- Black Country Urban Capacity Review Update December 2019
 - Black Country Urban Capacity Review Update May 2021
 - Black Country Green Belt Study September 2019
 - Black Country Landscape Sensitivity Appraisal September 2019
 - Black Country Employment Area Review July 2021
 - Black Country Economic Development Needs Report August 2021
 - Black Country Employment Land Supply Technical Paper July 2021
 - West Midlands SRFI – Whose Need Will It Serve? Duty to cooperate engagement July 2021
 - Black Country Housing Market Assessment March 2021

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Appendix 4

Duty to cooperate Chronology of Events

Date	Event	source of information	relevant matters
23/01/17 to 20/03/17	Shropshire Issues and Strategic Options Consultation		
27/10/17 to 22/12/17	Shropshire Preferred Scale and Distribution of Development Consultation		
12/07/2018	ABCA letter to SC re housing and employment need requesting cooperation	ABCA	Identification of expected shortfall of employment and housing
undated	Shropshire response to ABCA request for cooperation - email undated within BCP responses bundle	BCP DTC web page	SC adopted new Growth Strategy in 2017. acknowledge functional economic relationship with BC recognition of merit in Shropshire meeting some BC needs in east of Shropshire notes potential to use spare headroom in supply for BC needs will need to be consistent with the Economic Growth Strategy, infrastructure investment and exceptional circumstances welcome discussions in relation to M54 corridor
29/11/18 to 08/02/19	Shropshire Preferred Sites Consultation		
08/02/2019	ABCA Preferred Sites Consultation response	ABCA	Shortfall 22,000 dwellings and 300ha employment Seek increased growth and linkage between BC and Shropshire Seek strategic site in M54 corridor Support for growth in M54 corridor around junctions 2 & 3.
26/04/2019	Shropshire letter to ABCA requesting additional evidence to support J3	not published as evidence	Request for: Green belt review Alternative option in BC green belt Commitment to SOCG Support for engagement with funding infrastructure Headlines from WMSESS
13/05/2019	ABCA (Wolverhampton) providing additional evidence re J3	ABCA	response to request confirming: green belt study completed need remains 22,000 and 300ha and update on potential cross boundary provision seek SOCG Strategic Investment Delivery Plan recognises M54 corridor as strategic opportunity WMSESS will show requirement for strategic employment sites (>25ha)
01/07/19 to 09/09/19	Shropshire Strategic Sites Consultation		

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Date	Event	source of information	relevant matters
09/09/2019	ABCA officer Strategic Sites consultation response	ABCA	Strong support for allocation at M54 J3 – once in generation opportunity to help meet housing and employment need Response to matters stated in consultation to require further information
30/09/2019	ABCA to Shropshire	ABCA	confirmation of ABCA Leaders meeting endorsement of 09 September consultation response
01/01/2020	ABCA hosted DTC meeting	ABCA letter 04/08/20	no evidence
02/04/2020	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence
21/05/2020	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence
19/06/2020	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence
20/07/2020	Shropshire Cabinet	not published as evidence	Seeks approval to pre-submission draft plan BCP is only DTC matter for Plan rejects J3 and agrees to incorporate 1500 dwellings within Shropshire provision already identified, to be distributed in accordance with Strategic Approach 5.16 5.17 re J3 - insufficient justification for exceptional circumstances - no explanation
30/07/2020	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence
03/08/20 to 30/09/20	Shropshire Regulation 18: Pre-Submission Draft Consultation		
04/08/2020	ABCA letter update on cross boundary provision and need	BCP DTC Statement appendix 2	Shropshire offer 1,500 houses, nil employment request for participation in joint SOCG
unknown	ABCA Reg 18 representations ? (not seen)		
25/08/2020	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence. Did meeting happen? Note contradiction with statement in ABCA Reg 19 reps
24/09/2020	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence. Did meeting happen? Note contradiction with statement in ABCA Reg 19 reps
22/10/2020	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence. Did meeting happen? Note contradiction with statement in ABCA Reg 19 reps

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Date	Event	source of information	relevant matters
13/11/2020	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence. Did meeting happen? Note contradiction with statement in ABCA Reg 19 reps
07/12/2020	Shropshire Cabinet	not published as evidence	agrees to incorporate 30ha employment 5.24 Proposed employment land provision is beyond baseline in order to see a step change in economic growth over plan period as per Economic Growth Strategy 5.25 no requirement to identify additional land to offer 30ha
18/12/20 to 06/02/21	Shropshire Regulation 19 Pre-Submission consultation		
22/01/2021	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence. Did meeting happen? Note contradiction with statement in ABCA Reg 19 reps
19/02/2021	Walsall Reg 19 representations	Walsall	object to strategy not positive or effective in response to cross boundary strategic needs - employment, strategic employment and housing insufficient provision for BCP need
24/02/2021	ABCA Reg 19 representations	ABCA	states no engagement with Shropshire since Reg 18 representations in Sept 2020 insufficient provision for BCP needs seek commitment to early Plan review
03/03/2021	Dudley Reg 19 representations	Dudley	object to strategy not positive or effective in response to cross boundary strategic needs - employment, strategic employment and housing insufficient provision for BCP need
09/03/2021	ABCA DTC meeting with Shropshire	BCP DTC Statement appendix 3	no evidence
Jul-21	SOCG Shropshire and ABCA	Shropshire	agreement: outstanding BCP need 28,238 dwellings and 210ha employment necessary for all LPA to increase contribution through cross boundary provision agreement that Shropshire has offered 1,500 dwellings and 30ha disagreement: arrangements for review to address residual unmet need

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Date	Event	source of information	relevant matters
15/07/2021	Shropshire Cabinet report	Shropshire	<p>5.27 identifies BC outstanding need as 36,819 dwellings and 215ha emp land</p> <p>5.28 SC incorporate 1,500 homes and 30ha into requirements. Positive response to DTC and benefits to Shropshire (unspecified). Confirmation SC accepts need in principle</p> <p>5.36 cross reference to July 2020 Cabinet rejection of J3 on grounds of insufficient exceptional circumstances to release land from green belt</p> <p>5.37 Walsall and Dudley noted to support J3 at Reg 19 (no mention of Dudley not being duly made) but ABCA no objection to omission of J3</p> <p>5.38 Further weighing of benefits still insufficient justification for release of green belt at J3</p> <p>5.41 land removed from green belt for safeguarding for needs beyond plan period Albrighton, Shifnal and Alveley</p>
Sep-21	Shropshire DTC Statement of Compliance	Shropshire	<p>4.11 and 4.25 housing and employment provision for BC to be incorporated into needs and distributed in accordance with strategic approach</p> <p>4.26 SC consider 5 year natural review cycle is sufficient to consider any additional unmet needs from BC</p> <p>4.28 notes the significant consideration of economic importance of M54 / A5 corridor.</p>
03/09/2021	Shropshire Plan submission		
07/12/2021	ABCA to South Staffs - current position on housing shortfall	ABCA	updated position on shortfall
27/04/2022	ABCA to all GBBC HMA Authorities - current position on housing and employment shortfall	ABCA	updated position on shortfall

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Appendix 5

Black Country out-migration flows (Source: ONS Migration Estimates 2012-2020 total)

Year	Authority														Total	Shropshire % of total
	Birmingham	South Staffordshire	Shropshire	Cannock Chase	Wyre Forest	Telford and Wrekin	Lichfield	Bromsgrove	Solihull	Stafford	Redditch	Tamworth	Stratford on Avon	North Warwickshire		
2012	7,110	2,380	840	710	660	560	590	640	320	340	120	150	90	110	14,620	5.75%
2013	6,710	2,470	910	690	660	650	680	540	380	340	90	130	100	90	14,440	6.30%
2014	7,040	2,630	900	690	770	690	690	640	340	340	140	130	90	90	15,180	5.93%
2015	6,630	2,710	870	690	850	710	700	660	290	320	180	120	120	80	14,930	5.83%
2016	6,740	2,760	890	640	730	740	660	690	370	320	160	150	110	110	15,070	5.91%
2017	7,870	3,210	1,240	990	820	940	880	790	490	470	130	160	150	120	18,260	6.79%
2018	7,791	2,969	1,280	1,054	868	904	856	958	521	498	174	176	147	162	18,358	6.97%
2019	8,338	3,190	1,377	1,102	981	1,072	998	942	586	508	215	198	156	120	19,783	6.96%
2020	7,124	2,669	1,087	1,022	871	943	775	715	383	434	190	180	127	128	16,648	6.53%
Total:	65,353	24,988	9,394	7,588	7,210	7,209	6,829	6,575	3,680	3,570	1,399	1,394	1,090	1,010	147,289	6.38%
Total as % of all out migration	44.37%	16.97%	6.38%	5.15%	4.90%	4.89%	4.64%	4.46%	2.50%	2.42%	0.95%	0.95%	0.74%	0.69%	100.00%	

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Appendix 6

In-commuters to the Black Country (Source: 2011 Census table WU03UK)

Usual Residence	Place of Work					Black Country Total	Percentage of total
	Dudley	Sandwell	Walsall	Wolverhampton			
Birmingham	4,547	13,661	5,872	2,760		26,840	33.41%
South Staffordshire	3,736	1,894	3,876	10,381		19,887	24.76%
Cannock Chase	267	771	3,855	1,567		6,460	8.04%
Lichfield	207	691	3,197	632		4,727	5.88%
Shropshire	1,143	622	504	2,346		4,615	5.74%
Wyre Forest	2,473	902	138	395		3,908	4.86%
Bromsgrove	1,899	1,328	214	247		3,688	4.59%
Telford and Wrekin	458	468	543	1,770		3,239	4.03%
Stafford	223	299	713	1,146		2,381	2.96%
Solihull	415	909	461	293		2,078	2.59%
Redditch	324	399	71	80		874	1.09%
Tamworth	95	228	362	114		799	0.99%
North Warwickshire	61	171	175	70		477	0.59%
Stratford-on-Avon	98	165	47	48		358	0.45%
						80,331	

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Appendix 7

Shropshire Cabinet Report 20th July 2020

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Representor: A0137



0		<u>Committee and Date</u> Cabinet 20 th July 2020	<u>Item</u> Public
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SHROPSHIRE LOCAL PLAN REVIEW: Pre Submission Draft (Regulation 19)

Responsible Officer Mark Barrow, Executive Director Place
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1. Summary

- 1.1 The principle purpose of this report is to seek Cabinet approval for the Pre-Submission Draft of the Shropshire Local Plan and to trigger a period of public consultation in line with Government Regulations. On a directly related issue, the report also seeks approval in principle to accept an element of unmet housing need from the Association of Black Country Authorities (ABCA), and for this housing to be incorporated into the overall housing requirement for Shropshire to 2038.
- 1.2 The purpose of the Shropshire Local Plan is to plan effectively for growth over the long term, in this case to 2038. The Plan should respond to local issues, including settlement and site specific evidence and from public consultation responses, but should also respond to national policy and guidance. As such the Plan establishes a long term housing requirement for the county to 2038, based in part on the nationally defined housing need for Shropshire, but also taking into account localised factors, in particular the need to support economic growth and to deliver more affordable and lower cost housing. Additional employment and necessary infrastructure improvements are planned alongside housing development in seeking balanced and sustainable growth.
- 1.3 The Pre-submission version of the Local Plan has been informed by four previous stages of public consultation since 2017 as part of the 'Regulation 18' stage of preparation. These stages have sought views on a range of issues including County wide growth proposals; the distribution of that growth; settlement specific strategies; proposed site allocations to guide future growth; and the inclusion of a number of 'strategic sites' on land outside recognised settlements for large-scale mixed-use development. Alongside this the Council have developed a range of evidence base documents to inform proposals.
- 1.4 The Pre-submission Draft of the Plan represents the Council's 'Regulation 19' version of the Plan. In line with national regulations the Council will seek representations through a consultation process on the Pre-Submission Draft Plan. The public and other stakeholders will be asked to make representations by considering whether the pre-submission version of the Local Plan is 'sound' based upon a set of nationally prescribed criteria. It is the intention to seek a period of eight weeks for this consultation period, which is in excess of national minimum requirements.

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2. Recommendations

- A. That Cabinet approves the Pre-Submission Version of the Local Plan for a period of public consultation in order to seek representations on the soundness of the Plan;
- B. That Cabinet agrees the principle of Shropshire Council accepting up to 1,500 dwellings from the Association of Black Country Authorities (ABCA) as part of the Duty to Cooperate, and for these to be incorporated into Shropshire's overall housing requirement up to 2038 and to be distributed in accordance with the overall Strategic Approach to the distribution of growth.
- C. That authority is delegated to the Executive Director of Place in consultation with the Portfolio Holder for Housing and Strategic Planning Development to make additional minor editorial changes to the Pre-submission Version of the Local Plan ahead of its publication for public consultation, and to agree associated documents for publication, including the Sustainability Appraisal, Habitat Regulation Assessment and the Consultation Strategy.

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3. Risk Assessment and Opportunities Appraisal

- 3.1 The current Local Plan Review is designed to help ensure that the Local Plan remains the starting point and platform for planning decisions during the period to 2038. Local Planning Authorities should ensure they have an up-to-date Local Plan and for this process to enable an ongoing housing land supply sufficient to accommodate at least five years' worth of the area's housing requirement. Whilst the Council's current Core Strategy and SAMDev Plans (combined equating to the Local Plan for the area) are considered up-to-date, there is a risk that should the Local Plan not be reviewed in an appropriate timescale, the ongoing ability for the Council to manage growth in a plan-led manner will be weakened.
- 3.2 The pre-submission version of the Local Plan is a statutory stage of plan making and should represent an advanced and fully formed version of the Plan. This is the first occasion the emerging Local Plan has been published and consulted on in its full format, incorporating the various elements of previous stages of consultation into a single document. The four previous stages of consultation (listed in para 1.3) were part of the more informal Regulation 18 stage of preparation and focussed on specific issues. These stages have allowed the Council to respond where necessary to consultation responses and additional evidence, and to develop the Local Plan into the Pre-Submission version.

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- 3.3 If agreed, the Council will consult on the Pre-Submission Draft version of the Local Plan in summer 2020. In accordance with most up-to-date plan preparation timetable, agreed in April 2020 in light of the Covid 19 national emergency, it is proposed to seek Full Council approval to submit the Local Plan to the Secretary of State in December 2020 for Independent Examination. It is anticipated the Examination process will last at least 12 months, and it is therefore hoped to move to adoption of the Local Plan in early 2022, subject to a successful Examination process.
- 3.4 It is considered the significant amount of consultation carried out thus far has helped to inform the plan's preparation in a meaningful and constructive manner and reduced the risk to the Council of a challenge on the Plan's soundness on these grounds. However, given the high level of interest in the Plan and the nature of the issues it deals with, it is considered there is a significant likelihood the consultation on the pre-submission version of the Plan will generate a significant level of response. This should not be considered a risk in its own right, and indeed ensuring the public and other stakeholders have a meaningful opportunity to comment on the plan is essential to its 'soundness'. Instead the risk lies in the resource implications of a high response level, and the resulting consequences on plan preparation timetable. There is little to mitigate this risk.
- 3.5 The key purpose of the Regulation 19 consultation stage is to allow consultees the opportunity to make representations on the 'soundness' of the Local Plan. All representations made will be considered by a Planning Inspector appointed to independently examine the Local Plan, currently scheduled to take place in 2021. Ahead of the submission of the Local Plan for examination, scheduled for January 2021, the Council's ability to respond to representations made through the consultation is more limited than at the Regulation 18 consultation stages. Indeed, whilst the Council will be able to agree minor modifications to the Local Plan ahead of its Submission to the Secretary of State this does not extend to making more significant changes, such as the inclusion of an additional site allocation.
- 3.6 However, if, through the Regulation 19 consultation process, it is decided there is a need for the Council to make a significant change to the Plan, the Council does have the ability to propose these changes as long as these are subject to a period of consultation through a further Regulation 19 consultation exercise. Again the risk to the Council in this scenario is one of timeframe, and a new Local Development Scheme (LDS) setting out the Local Plan preparation timetable would need to be agreed. The extensive consultation the Council has carried out at the Regulation 18 stages has mitigated this risk, but it should be recognised that there is always the possibility of new evidence being presented through the Regulation 19 process which could lead to a need to propose a more significant alteration to the Plan.

4. Financial Implications

- 4.1 Planned growth provides the best possible opportunity for Shropshire Council to harness growth potential by providing a stable platform for investors and developers. Growth also provides an opportunity to secure contributions to help maintain and improve local facilities, services and infrastructure. New growth simultaneously imposes an additional burden on local services and

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provides opportunities to secure investment to improve local facilities which are the responsibility of Shropshire Council and other public service providers.

- 4.2 The Local Plan process is subject to a number of costs, both during preparation principally due to the need to commission evidence base documents to inform both site allocations and development management policies, and through the Examination process, principally through the cost of the Planning Inspectorate. These costs are both necessary and unavoidable in the pursuit of a 'sound' Plan.
- 4.3 Equally there is a financial risk to the Council of not pursuing a review of the Local Plan in a timely manner, most notably through the likelihood of increased levels of planning appeals as a result of increased challenges to the integrity of the currently adopted Core Strategy and SAMDev plan.

5 Background

- 5.1 The National Planning Policy Framework (NPPF) confirms that the planning system should be genuinely plan-led, and that up-to-date Plans should provide a positive vision for the area; a framework for addressing housing need and other economic, social and environmental priorities. The NPPF also states that Plans should be a platform for local people to shape their surroundings.
- 5.2 Whilst Shropshire currently has an up-to-date Local Plan through the adopted Core Strategy and SAMDev documents, there is clearly a significant onus on authorities to regularly update these plans in order to keep them up-to-date. The need for an early review of the Local Plan was also a requirement of the SAMDev Inspector's Report in 2015. However, it should equally be recognised that Plan making does take time; an inevitable consequence of necessary and constructive community engagement, and the need for policies and proposals to be supported by robust evidence. With this in mind, the Council began an early review of the Local plan in 2017, with the Pre-Submission draft (Appendix 1) being the consolidated outcome of this process.
- 5.3 The Pre-Submission version of the Local Plan contains the following broad elements:
 - Strategic approach to growth and distribution of development;
 - Localised Strategies for individual settlements;
 - Strategic Sites;
 - Development Management policies to guide all development

Strategic approach to growth and distribution of development

- 5.4 Policy SP2 of the Pre-Submission Draft of the Local Plan sets out the overall growth aspirations for the County between 2016 and 2038 of around 30,800 new dwellings and around 300 hectares of employment land, equating to around 1,400 dwellings and 15ha of employment land per annum. This represents a marginally lower growth level than that proposed in the

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Preferred Scale and Distribution of Growth consultation carried out in early 2018, and is broadly in line with past rates of growth seen in the County.

- 5.5 This level of housing growth proposed across the 22 years covered by the Plan Period seeks to respond in the first instance to the most up-to-date calculation of housing need in the County as a basis, currently 25,894 dwellings over the Plan Period, and then accommodates an additional uplift in this capacity in order to respond positively to the overall 'high growth' strategy. It is considered this uplift will further support the delivery of family and affordable housing to support local needs; increase the opportunity for specialist housing and the needs of other groups; support the diversification of the workforce; support greater opportunities to support the Council's wider economic growth aspirations; and support the opportunity for the Council to respond positively to appropriate cross boundary needs.
- 5.6 The approach to distribution of development reflects the Council's previously stated preferred option, favouring an 'urban focussed' approach. It is considered that by virtue of the infrastructure and services Shropshire's largest settlements generally provide, there is a greater opportunity to deliver larger scale mixed use schemes, in doing so providing better conditions to support additional employment delivery and providing a better balance of growth.
- 5.7 It is a requirement of Local Planning Authorities to undertake a duty to cooperate with neighbouring and closely related Local Planning Authority areas. Council officers have been engaged in discussions with these areas over the course of the plan preparation process. Ahead of the proposed submission of the Local Plan in January 2021, a series of Statements of Common Ground will be prepared and agreed with these areas.
- 5.8 Based upon the discussions to this point the only cross boundary issue requiring recognition and intervention in the Local Plan is with the Association of Black Country Authorities (ABCA) as part of the ongoing preparation of their Black Country Local Plan. The issue relates to the lack of capacity in the ABCA area to accommodate all their defined housing and employment needs in their area in a sustainable manner. This has resulted in ongoing discussions and agreement with a number of surrounding Planning Authority areas to accommodate varying amounts of this unmet need.
- 5.9 Effective and on-going joint working between strategic policy-making authorities is an important part of plan-making as part of the Duty to Cooperate. With this in mind, and further to discussions with the Black Country Authorities, it is proposed that the Shropshire housing requirement of 30,800 dwellings incorporates 1,500 dwellings to support the housing needs of the emerging Black Country Plan, resulting from constraints to their housing supply opportunities to 2038. It is considered this offer responds positively and constructively to the needs of ABCA, an area with close links to Shropshire, and provides an opportunity for Shropshire Council to accommodate this need as part of its overall housing requirement, and to distribute this need in line with its agreed pattern of development outlined in Policy SP2 of the Local Plan.

Localised Strategies for individual settlements

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- 5.10 In following the urban focussed approach the majority of the County's growth is captured in settlement specific strategies for Shropshire's network of Market Towns. For the majority of areas this includes proposed site allocations and guidelines on how development on these sites will be managed. It should be remembered that whilst the allocation of a site provides an 'in principle' support that development in this location can be supported, these will continue to be subject to the grant of future planning approval. Where local communities are currently preparing Neighbourhood Plans this has been reflected within the proposed strategies.
- 5.11 Whilst the focus of the plan is on the urban area, it continues to be important to plan effectively for Shropshire's rural areas, but in doing so recognising that growth opportunities in these areas should be more closely aligned with the ability of villages to provide a standard of services and facilities. For this reason the Council opted early in the plan preparation process to provide a consistent methodology to the identification of Community Hubs, assessed through the Hierarchy of Settlements document. The conclusions of this process are included in schedule SP2.2 of the Pre-Submission Draft Plan, which identifies those areas which are proposed to act as Community Hubs. Policy SP7, along with individual Settlement specific policies, seeks to provide a framework for how development will be managed in these areas effectively and in keeping with the local character.

Strategic Sites

- 5.12 The Pre-Submission version of the Local Plan proposes to allocate three strategic settlements/sites at the following locations:
- The Former Ironbridge Power Station which will form a new strategic settlement;
 - Clive Barracks, Tern Hill which will form a new strategic settlement; and
 - RAF Cosford which will facilitate MOD use and associated activities

Former Ironbridge Power Station

- 5.13 The former Ironbridge power station occupies a 350 acre site south of the River Severn near Buildwas. The power station ceased operation in 2015 and was purchased by Harworth Group in 2017 with a view to regenerating the site. The proposed inclusion of the site for inclusion within the Local Plan was consulted on as a preferred option in summer 2019. An outline planning application was subsequently submitted to the Council in December 2019 for a major mixed use development including 1,000 dwellings. Whilst the planning application is yet to be determined, it remains appropriate for the Council to continue to seek the site's inclusion within the Local Plan. It is expected that subject to the grant of planning approval, the site will be fully developed by the end of the plan period. The proposed development guidelines for the site are included in Policy S20 of the Pre-Submission Draft Local Plan

Clive Barracks, Tern Hill

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5.14 Clive Barracks is a 50 hectare military site on the A41 near Market Drayton which is currently home to the Royal Irish Regiment. MOD announced the intention to redevelop the site in March 2016, and have subsequently confirmed they now plan to complete the vacation and disposal of the site by 2025. The proposed inclusion of the site for inclusion within the Local Plan to form a significant mixed use proposal was consulted on as a preferred option in summer 2019. Local engagement on the site up to this point has helped to shape the proposed development guidelines for the site, which is proposed to provide employment land and around 750 homes as part of a new settlement, together with local services and facilities. Given the timeframe of the proposed disposal of the site, it is expected that around 600 homes will be delivered during the plan period to 2038. The proposed development guidelines for the site are included in Policy S19 of the Pre-Submission Draft Local Plan.

RAF Cosford

5.15 The national defence review has confirmed RAF Cosford as a key Ministry of Defence asset, but it is considered the potential for the area to meet its future operational defence requirements is restricted by its Green Belt location. Having considered the impact on national Green Belt objectives, as well as the benefits of doing so, it is considered there are exceptional circumstances for the site to be released from the Green Belt. In summary the strategic site will build upon its existing role as a centre of excellence for both UK and International Defence Training, host a specialist aviation academy, support opportunities to co-locate other Ministry of Defence units and activities, facilitate the intensification and expansion of the RAF Museum Cosford and allow the formation of a new headquarters for the Midland Air Ambulance Charity. The proposed development guidelines for the site are included in Policy S21 of the Pre-Submission Draft Local Plan

Other Strategic Site Considerations

- 5.16 As part of the Strategic Sites consultation in summer 2019 the Council confirmed it was considering the potential inclusion of land north of Junction 3 on the M54 within the Local Plan. The land, which covers around 400 hectares and lies wholly within the Green Belt, is being actively promoted to include around 3,000 dwellings and 50ha of employment land, as well as the inclusion of local facilities and services. Whilst the Strategic Sites consultation in 2019 clearly established the site was not at that stage preferred for development, given the scale of the proposal the Council nevertheless considered it was important to seek community views.
- 5.17 In weighing up the site specific considerations, both positive and negative, and giving consideration to the consultation responses on this matter, it is considered there is insufficient justification to progress an exceptional circumstances argument for the release of this land from the Green Belt. The site is therefore not included within the Pre-Submission version of the Local Plan.

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Green Belt Release

- 5.18 Green Belt is perhaps one of the most widely known designations in the planning system. Green Belts cover parts of many local authority areas; in Shropshire's case significant areas in the east of the County are covered by the West Midlands Green Belt designation. The key purposes of the designation is to check unrestricted sprawl; prevent neighbouring towns merging; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration.
- 5.19 Permanence is a key feature of Green Belt boundaries, and their extent should only be altered where exceptional circumstances apply. It is however, appropriate for Local Plans to review Green Belt boundaries when required, and in Shropshire's case this was prompted in 2015 by the conclusions of the SAMDev Inspector's Report, which instructed that a review of Shropshire's Green Belt be carried out as part the Local Plan review process. To this end, in 2017 the Council commissioned a Green Belt Assessment in order to assess the extent to which the land within the Green Belt in Shropshire performs against the purposes of Green Belts (outlined in para 5.18). This was followed in 2018 by the publication of a Green Belt Review, which provides an assessment of the harm to the Green Belt purposes should particular parts of the Green Belt be released. The Council therefore have a comprehensive evidence base with which to support decision taking.
- 5.20 It is important to note that before seeking to release land from the Green Belt, the NPPF places a clear need for the strategic policy-making authority to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. In addition to accommodating the needs of RAF Cosford, and having considered local circumstances of need, the Pre-Submission version of the Local Plan proposes the removal of land from the Green Belt for allocations for employment development within the plan period to 2038 in Shifnal and Bridgnorth, and for mixed use and housing development in Alveley. The Draft Plan also seeks the removal of land from Green Belt for to act as 'safeguarded land' for potential development beyond the plan period in Albrighton, Shifnal and Alveley.
- 5.21 The council are aware there has been a particular focus recently on development options at Bridgnorth, which acts as Shropshire's third largest settlement but which is constrained by Green Belt on its eastern side. In 2018 as part of the Preferred Sites consultation the Council proposed the allocation of land at Stanmore, within the Green Belt, for a new mixed use Garden Village in order to meet the growth requirement for the town within the plan period. Whilst a full exceptional circumstances argument was not advanced at this point, it was felt this option represented a sustainable option for the town, in part given the lack of reasonable alternatives available being presented in non-Green Belt locations. It is acknowledged there was a significant level of opposition to this proposal expressed through the preferred options consultation process.
- 5.22 In March 2020, the Council became aware of a new major development option for the town being presented by Taylor Wimpey. This proposed the inclusion of land to the south of the A458, which falls principally in the Tasley parish area, for the creation of an alternative Garden Village of a similar scale

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and nature to the Stanmore proposal. This land is not within the Green Belt. This has been a significant new consideration in the process. In meeting the policy requirements of the NPPF concerning the release of Green Belt, it has been necessary for officers to reassess the continued suitability of the Stanmore proposal. This further site assessment process will be included in the evidence base material upon publication of the Pre-Submission draft for consultation, but in advance of this Appendix 2 of this report specifically sets out the officer considerations and conclusions on this issue.

- 5.23 In summary, having considered the competing site proposals against a full range of material issues, it is recommended that the Tasley Garden Village proposal should be preferred for development to support a comprehensively planned mixed use development to meet the housing needs of Bridgnorth over the plan period. Conversely, it is now recommended that the majority of the Stanmore proposal should remain designated as Green Belt and should not be identified for future development. The exception to this is land north and west of the existing Stanmore Industrial Park, where it continues to be considered the release of land from the Green Belt would be beneficial in supporting the future expansion needs of the Industrial Park to meet employment requirements.
- 5.24 It is acknowledged this is a significant change of position from that proposed in the Preferred Options document in November 2018. However, it remains necessary for the Council to be responsive to new evidence and site promotions throughout the plan making process. In this instance, the impact on the objectives of the Green Belt is a significant policy consideration which has been taken into account, but equally the wider site assessment process leads to the conclusion that the Tasley Garden Village is capable of delivering a sustainable mixed use scheme. Whilst it is acknowledged Taylor Wimpey have carried out localised engagement on the proposal during May and June, the community will have the opportunity through the Regulation 19 consultation process to have their say on the soundness of the Plan to Shropshire Council.

Strategic and Development Management Policies to Guide New Development

- 5.25 The NPPF states that Local Plans should contain policies that are clearly written and unambiguous, and that a development plan must include strategic policies to address an area's priorities for the development and use of land in its area. A local Plan can also include a series of non-strategic (or detailed) policies to address other more specific issues.
- 5.26 The Pre-Submission version of the Local Plan contains 35 Strategic and Development Management policies, covering a wide spectrum of issues and considerations relevant to the pursuit of sustainable development including climate change; supporting high quality design; managing development in the countryside; delivering affordable housing; ensuring a suitable mix of tenures in new residential development; and managing and minimising flood risk. When adopted these policies will replace the current development management policies in the Core Strategy and the SAMDev Plan.

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- 5.27 Whilst the Local Plan should be the starting point for taking decisions on planning applications it does not sit in isolation. To this end many of the proposed development management policies make reference to other strategies being prepared by the Council, including the adopted Economic Growth Strategy 2017-2021, and the emerging Housing and Climate Change Strategies. In doing so these strategies will be a material factor in decision making.

6 Next steps

- 6.1 Subject to Cabinet approval, the Pre-Submission Draft of the Local Plan, along with the associated documents will be published for consultation for a period of eight weeks. It is proposed this consultation will begin on Monday 3rd August and run until Wednesday 30th September, subject to the considerations outlined in para 6.2. Throughout the plan preparation process officers have sought to engage constructively with communities, Parish and Town councils, and elected representatives on emerging preferred options. Whilst in many cases this has led to a consensus of opinion on issues, it is recognised there remains areas where there is likely to be opposition to proposals and that in some areas elected representatives have voiced their objections to proposals included within the Pre-Submission Draft Plan. The statutory consultation process is an opportunity for communities, Parish and Town Councils and elected representatives to submit their comments on the soundness of the Plan, and these will be considered ahead of the proposed submission of the Local Plan to Government for examination in January 2021.
- 6.2 The Consultation on the Pre-Submission Draft of the Local Plan must meet the Town and Country Planning (Local Planning) (England) Regulations 2012, as a minimum. For clarity this means the Pre-Submission Draft of the Local Plan must be made available for inspection at the Council's principal office (in this case Shirehall) and at such other places within the authority area as the Council consider appropriate, which has in previous stages of consultation been libraries. It is acknowledged that due to the Covid 19 national emergency there have been restrictions placed on public access into Council premises, and it is recognised that this will need to be addressed as a matter of priority before the consultation can begin. Consultation arrangements must also meet the requirements of the Council's Statement of Community Involvement (SCI). A significant number of organisations and individuals will continue to be notified directly of the publication of the consultation documents in accordance with the SCI. Electronic responses are encouraged to reduce printing and distribution costs and to reduce the time spent collating and analysing paper responses.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

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Cabinet Member (Portfolio Holder) Robert Macey, Portfolio Holder for Housing and Strategic Planning
Local Members
Appendices <ol style="list-style-type: none">1. Shropshire Local Plan 2016-2038: Pre-Submission Draft Local Plan plus associated mapping2. Assessment of Garden Village Proposals in Bridgnorth

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Representor: A0137



Appendix 8

Shropshire Cabinet Report 7th December 2020

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Representor: A0137



0		<u>Committee and Date</u> Cabinet 7 th December 2020	<u>Item</u> <u>Public</u>
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SHROPSHIRE LOCAL PLAN REVIEW: Pre Submission Draft (Regulation 19)

Responsible Officer Mark Barrow, Executive Director Place
e-mail: mark.barrow@shropshire.gov.uk Tel: 01743 258919

1. Summary

- 1.1 The principle purpose of this report is to seek Cabinet approval for the Pre-Submission Draft of the Shropshire Local Plan and to trigger a period of public consultation in line with Government Regulations. This is referred to as Regulation 19 stage of Plan preparation, and signifies the point in the process where the Council has concluded its earlier consultations under Regulation 18, which in Shropshire's case has included five separate public consultation stages.
- 1.2 On a directly related issue, the report also seeks approval in principle to accept an element of unmet employment land need from the Association of Black Country Authorities (ABCA), and for this employment need to be incorporated into the overall employment requirement for Shropshire to 2038. This follows on from Cabinet's decision in July 2020 to accept the principal of Shropshire Council to accept up to 1,500 dwellings from ABCA's identified housing need and represents an important aspect of the ongoing Duty to Cooperate legal process.
- 1.3 The Cabinet paper also seeks approval of an amended timeframe for the production of the Local Plan, which must be set out in the Local Development Scheme (LDS). In order for a Local Plan to be 'legally compliant' it must be produced in accordance with the timeframe set out in the LDS – hence the need to amend it. This has been necessary in order for the Council to give meaningful consideration to the responses made to the public consultation on the Regulation 18 Pre-Submission Draft version of the Plan.
- 1.4 The purpose of the Shropshire Local Plan is to plan effectively for growth over the long term, in this case to 2038. The Plan should respond to local issues, including settlement and site specific evidence and from public consultation responses, but should also have full regard to national planning policy and guidance. As such the Plan establishes a long term housing requirement for the county to 2038, based in part on the nationally set methodology, but also taking into account localised factors, in particular the need to support economic growth and to deliver more affordable and lower cost housing.
- 1.5 The Local Plan seeks to set an appropriate and 'sound' strategy for the County. It is the role of the Regulation 19 stage of consultation to seek

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representations on the 'soundness' of the Plan based on a number of specified criteria in the National Planning Policy Framework.

- 1.6 The 'Regulation 19' Pre-submission version of the Local Plan has been informed by the following five previous stages of public consultation as part of the 'Regulation 18' stage of preparation:

- Issues and Strategic Options (January 2017);
- Preferred Scale and Distribution of Growth (November 2017);
- Preferred Site Allocations (November 2018);
- Strategic Sites (June 2019);
- Draft Pre-Submission Local Plan (August 2020)

These stages have sought views on a range of issues including County wide growth proposals; the distribution of that growth; settlement specific strategies; proposed site allocations to guide future growth; the inclusion of a number of 'strategic sites' on land outside recognised settlements for large-scale mixed-use development; and a range of strategic and development management policies with which to effectively manage development. Alongside this the Council have developed a range of evidence base documents to inform proposals and policies.

- 1.7 In line with national regulations the Council will seek representations through a consultation process on the Regulation 19 Pre-Submission Draft Plan. The public and other stakeholders will be asked to make representations by considering whether the pre-submission version of the Local Plan is 'sound' based upon a set of nationally prescribed criteria. It is the intention to seek a period of seven weeks for this consultation period, which is in excess of national minimum requirements.

2. Recommendations

- A. That Cabinet approves the Pre-Submission Version (Regulation 19) of the Local Plan (Appendix 1) for public consultation in line with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, for a period of seven weeks;
- B. That Cabinet agrees the principle for Shropshire Council to accept up to 30 hectares of employment need from the Association of Black Country Authorities (ABCA) as part of the legal Duty to Cooperate process, in order to supplement the acceptance of up to 1,500 dwellings from ABCA to 2038 (previously agreed in principle), and for this employment provision to be distributed in accordance with draft policy SP2 of the draft Local Plan.
- C. That Cabinet approves an updated version of the Local Development Scheme (Appendix 3)

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- D. That authority is delegated to the Executive Director of Place in consultation with the Portfolio Holder for Housing and Strategic Planning Development to make additional minor editorial changes to the Pre-submission Version of the Local Plan ahead of its publication for public consultation, and to agree associated documents for publication, including the Sustainability Appraisal, Habitats Regulation Assessment and the Consultation Strategy.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 A key purpose of the Local Plan is to provide an appropriate strategy to enable an area to grow in a sustainable manner to meet the need for development. The Local Plan is the starting point for taking planning decisions. In recent years the importance of having an up-to-date Local Plan has been amplified by the need for Local Authorities to show a sufficient (at least five years) supply of housing land. Indeed Shropshire has seen first-hand the impact of not having a sufficient housing land supply where some planning decisions are made in an ad hoc manner where Local Plan policies are afforded less weight in decision making.
- 3.2 The most effective way to ensure the Council maintains a sufficient level of housing supply is to keep its Local Plan up-to-date. Whilst the Council's current Core Strategy and SAMDev Plans (combined equating to the Local Plan for the area) are currently considered up-to-date, there is a risk that should the Local Plan not be reviewed in an appropriate timescale, the ongoing ability for the Council to manage growth in a plan-led manner will be compromised.
- 3.3 The pre-submission version of the Local Plan (Appendix 1) is a statutory stage of plan making and represents a very advanced and fully formed version of the Local Plan. It signals the end of the Council's detailed and robust 'Regulation 18' stage of plan making and the transition into the more formal 'Regulation 19' stage. Indeed, since 2017 the Plan has been subject to five separate stages of public consultation. Most recently, between August and September, the Council published and consulted on a full Draft Local Plan as part of the Regulation 18 stage, and Section 5 of this report will provide more detail on the outcomes of this important consultation.
- 3.4 It is considered the Council's approach to consultation has allowed the public and other stakeholders to have a significant opportunity to input into the process and, where appropriate, to shape the emerging Local Plan's proposals. Importantly however, consultation in this context does not mean that a consensus of opinion has been reached in all cases, and it is appropriate to recognise there remains opposing views to some elements of the Local Plan locally, either from residents, local parish and town councils, site promoters or all three. It is the role of the Local Plan's consultation process to allow for these views to be made, and for the Council to respond and reflect upon them, especially if they are advancing material considerations. It is considered the thorough process the Council has engaged in over the last few years, which has followed the requirements of

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legislation and the Council's own Statement of Community Involvement (SCI), has allowed this to happen in an effective and meaningful manner.

- 3.5 The Regulation 19 Pre-Submission Draft is the second occasion where the emerging Local Plan has been published and consulted on in a full format. The five previous stages of consultation (listed in para 1.6) were part of the preliminary Regulation 18 stage of preparation; the first four consultations between 2017 and 2019 focussing on specific parts of the process, whilst the fifth stage bringing these elements together with the inclusion of a full set of draft strategic and development management policies.
- 3.6 If agreed, the proposal is to consult on the on the 'Pre-Submission Draft' version of the Local Plan at Regulation 19 for seven weeks between mid-December and the end of January 2021. The updated version of the Local Development Scheme (LDS), included to this report as Appendix 3, recommends a new timetable for the Local Plan. This takes into account the recommendation to consult for a period of seven weeks on the Pre-Submission Local Plan, and charts a realistic timetable to the Submission of the Local Plan to the Government for Examination in April 2021. It should be noted that the proposed seven week period of consultation at Regulation 19 exceeds the statutory minimum requirements and takes into account that the proposed consultation includes the Christmas period. Once submitted, the revised LDS anticipates an Examination process of around 12 months, and it is therefore hoped to move to adoption of the Local Plan in May 2022, subject to a successful Examination process.
- 3.7 The key purpose of the Regulation 19 consultation stage is to allow consultees the opportunity to make representations on the 'soundness' of the Local Plan. All representations made will be considered by a Planning Inspector appointed to independently examine the Local Plan, currently scheduled to take place in 2021. Ahead of the submission of the Local Plan for examination, the Council's ability to respond to representations made through the consultation is more limited than at the Regulation 18 consultation stages. Indeed, whilst the Council will be able to agree minor modifications to the Local Plan ahead of its Submission to the Secretary of State this does not extend to making more significant changes, such as the inclusion of an additional site allocation.
- 3.8 However, if, through the Regulation 19 consultation process, it is decided there is a need for the Council to make a significant change to the Plan, the Council does have the ability to propose these changes as long as these are subject to a period of consultation through a further Regulation 19 consultation exercise. Again, the risk to the Council in this scenario is one of timeframe, and a new Local Development Scheme (LDS) setting out the Local Plan preparation timetable would need to be agreed. The extensive consultation the Council has carried out at the Regulation 18 stages has mitigated this risk, but it should be recognised that there is always the possibility of new evidence being presented through the Regulation 19 process which could lead to a need to propose a more significant alteration to the Plan.

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4. Financial Implications

- 4.1 Planned growth provides the best possible opportunity for Shropshire Council to harness growth potential by providing a stable platform for investors and developers (from both the public and private sectors). Growth also provides an opportunity to secure contributions to help maintain and improve local facilities, services and infrastructure. New growth simultaneously imposes an additional burden on local services and provides opportunities to secure investment to improve local facilities which are the responsibility of Shropshire Council and other public service providers.
- 4.2 The Local Plan process is subject to a number of costs, both during preparation principally due to the need to commission evidence base documents to inform both site allocations and development management policies, and through the Examination process, principally through the cost of the Planning Inspectorate. This expenditure is both necessary and unavoidable in the pursuit of a 'sound' Plan.
- 4.3 Equally there is a financial risk to the Council of not pursuing a review of the Local Plan in a timely manner, most notably through the likelihood of increased levels of planning appeals as a result of increased challenges to the integrity of the currently adopted Core Strategy and SAMDev plan.

5 Background

- 5.1 The National Planning Policy Framework (NPPF) confirms that the planning system should be genuinely plan-led, and that up-to-date Plans should provide a positive vision for the area; a framework for addressing housing need and other economic, social and environmental priorities. The NPPF also states that Plans should be a platform for local people to shape their surroundings. This important principle is also central to the recent proposed changes to the Planning system as part of the Government's Planning White Paper.
- 5.2 Whilst Shropshire currently has an up-to-date Local Plan through the adopted Core Strategy and SAMDev documents, there is clearly a significant onus on authorities to regularly update these plans in order to keep them up-to-date. The need for an early review of the Local Plan was also a requirement of the SAMDev Inspector's Report in 2015. However, it should equally be recognised that Plan making does take time; an inevitable consequence of necessary and constructive community engagement, and the need for policies and proposals to be supported by robust evidence. With this in mind, the Council began an early review of the Local Plan in 2017, with the Pre-Submission draft (Appendix 1) being the consolidated outcome of this process.
- 5.3 In July 2020 Cabinet agreed to consult on a full Draft version of the Local Plan. Broadly this plan contained the following sections:
 - Strategic approach to growth and distribution of development;
 - Strategic Policies
 - Development Management policies
 - Localised Strategies for individual settlements;

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- Policies for new Strategic Sites and Settlements;

Feedback from the Draft Local Plan consultation (August-September 2020)

- 5.4 The recent consultation on the Draft Local Plan at Regulation 18 allowed the Council to consult on a full version of the Local Plan for the first time, and to consider responses, before moving to the formal Regulation 19 stage. The consultation process, which spanned for eight weeks between August and September, led to responses from around 2,500 consultees, including from statutory organisations, local organisations, parish and town councils, local residents and site promoters. This is a significant response rate, and officers have reflected upon these responses in moving the Plan forward. Indeed, it should be noted that due to the high response rate, officers have required a further two weeks to consider responses than first assumed, leading to the change in date of Cabinet. A full summary of the consultation responses will be made available as part of the consultation into the Regulation 19 Pre-Submission Plan.

Changes incorporated into the Regulation 19 Pre-Submission Local Plan

- 5.5 Officers have reviewed and considered the comments made, alongside any other material issues not previously considered. Revisions are now suggested and have been incorporated into the Regulation 19 version included as Appendix 1 to this report. A detailed summary of all the consultation responses is included as Appendix 4 to this report.
- 5.6 None of the suggested changes alter the core strategic approach to the Plan. There are no changes proposed to the overall levels of local housing and employment growth over the plan period; the approach to the distribution of growth across the County through a settlement hierarchy; and the identification of Community Hubs in the rural area.
- 5.7 The vast majority of the changes which are now proposed relate to relatively minor amendments to policy wording, both with respect to the proposed developer guidelines to site allocations and to strategic and development management policies. Officers are recommending these changes minor changes in response to consultation responses, but also to the need to provide additional clarity to policies. The Plan has also needed to reflect very recent changes to the Use Class Order classification that came into effect on 1 September relating to consolidation of several previous uses into a new Class E Use Class Order comprising commercial, business and service uses.
- 5.8 The proposed Regulation 19 version of the Local Plan proposes a small number of more significant changes to site allocations, in instances where consultation responses have raised new material considerations, and the site assessment process has been revisited. Also it is now proposed to include an additional development management policy concerning Strategic, Renewable and Low Carbon Infrastructure (Draft Policy 26) which includes criteria by

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which the Council will consider proposals for wind and non-wind renewable energy infrastructure proposals.

5.9 With regard to the changes to site allocations, in summary it is proposed to:

Remove the following sites from the previous draft version of the Local Plan:

- Church Stretton: Land at Snatchfields for 70 dwellings (CST021);
- Oswestry: Land at Trefonen Road for 30 dwellings (OSW017);
- Weston Rhyn: Land off High Street for 60 dwellings (WRP006)
- Shrewsbury: Land at Battlefield Roundabout for 9ha of employment land (SHR197/VAR)

Include the following site in the Local Plan:

- Weston Rhyn: Land off Trehowell Lane for 60 dwellings (WRP001/VAR)

- 5.10 In the case of land at Snatchfields, Church Stretton (CST021), following consideration of comments made to the draft Plan, officers have reassessed the ability for the town to deliver its localised housing guideline through a combination of windfall sites within the development boundary, including on Brownfield land, and through the likely delivery of exception and cross-subsidy affordable housing sites, in line with draft policies DP4 and DP7 of the Draft Local Plan. Having undertaken this reassessment it has been concluded that these sources of supply are likely to be sufficient to achieve the localised housing guideline and as such it is considered that there is insufficient justification to warrant the allocation of major housing development in Church Stretton, given its location within the Shropshire Hills Area of Outstanding Natural Beauty (AONB) and the need, documented within the NPPF, to demonstrate that exceptional circumstances exist for such major development within the AONB.
- 5.11 In the case of land at Trefonen Road, Oswestry (OSW017), following consideration of comments made to the draft Plan, officers acknowledge there are localised highway issues, which although are not considered to be severe, have been re-considered as part of the overall balance of considerations. These considerations have included the site's potential contribution to the overall housing supply in the town, which has been judged to be minimal over the plan period.
- 5.12 In the case of the proposed change to the site allocation at Weston Rhyn, by way of background, in 2018 the Council preferred site WRP001 for the development of around 60 dwellings. However, at this time it became apparent that the site may not be available for development due to the dated nature of the site promotion material. Therefore, this site was replaced by the adjacent WRP006 as the Preferred Site for the 'Regulation 18 Pre-Submission Draft of the Shropshire Local Plan' in August 2020, also for 60 dwellings. In response to this latest consultation the council have become aware of new promotional material from the promoters of WRP001, which confirms the site's availability as well as proposing new access arrangements. This, alongside the consideration of local concerns relating to access arrangements for WRP006, has led officers to revert to the preference for site WRP001, albeit in a slightly modified format, which also takes in a small element of WRP006. Both sites have therefore been subject

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to public consultation during the regulation 18 stage of plan preparation, and importantly they are now subject to a "joint promotion" agreement between the landowners. It is therefore considered preferred options provides a more sustainable solution for the settlement's housing delivery.

- 5.14 In the case of land at Battlefield Roundabout, Shrewsbury, following consideration of comments made to the draft Plan, which have highlighted concern about development to the east of the A49, as well as consideration given to the implications of the new Class E Use Class Order (which came into operation on 1 September during the consultation period), it is now considered unnecessary to specifically allocate this land for employment purposes. It is therefore considered that Shrewsbury's employment provision can be met through the delivery of the proposed strategic employment site north of Preston Boats roundabout (SHR166); through other mixed use development proposed, particularly on land to the west of the town; through existing SAMDev allocations, and through additional windfall development where it meets proposed criteria set out in Draft Policies S13 and S14 of the Draft Local Plan.
- 5.15 The updated Site Assessments, which are to be made available as part of the Regulation 19 consultation, provide more detail on the rationale for these proposed changes. Whilst clearly of local significance, it is not considered any of these changes compromise the delivery of the Plan's Strategic Approach.
- 5.16 It is not proposed to amend any proposed Community Hub settlements, and therefore the schedule of Community Hubs remains the unchanged from that consulted on in August/September 2020, and is now included in Schedule SP2.2 of the Draft Local Plan. Whilst it is recognised there remains some concern locally regarding the methodology behind the identification of Community Hubs within the overall strategic hierarchy, officers remain of the view that the proposed approach offers a sound and consistent basis to make these recommendations. These issues have been given very detailed consideration by officers in arriving at the current position. With regards to Community Cluster settlements, in acknowledging the continuation of the Parish Council 'opt in' approach to their identification, it is proposed that the Maesbrook, Dovaston and Knockin Cluster be removed on the request of the Knockin Parish Council, and that Newcastle and Whitcott Keysett be included as a new Community Cluster on the request of Newcastle on Clun Parish Council. All other Community Cluster settlement remain unchanged and are listed in Schedule SP2.3 of the Draft Local Plan.

Strategic approach to growth and distribution of development

- 5.17 PolicySP2 of the Pre-Submission Draft of the Local Plan sets out the overall growth aspirations for the County between 2016 and 2038 of around 30,800 new dwellings and around 300 hectares of employment land, equating to around 1,400 dwellings and 15ha of employment land per annum. This represents a marginally lower growth level than that proposed in the Preferred Scale and Distribution of Growth consultation carried out in early 2018, and is broadly in line with past rates of growth seen in the County.

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- 5.18 This level of housing growth proposed across the 22 years covered by the Plan Period seeks to respond in the first instance to the most up-to-date calculation of housing need in the County, currently 25,894 dwellings over the Plan Period, and then accommodates an additional uplift in this capacity in order to respond positively to the overall 'high growth' strategy. It is considered this uplift will further support the delivery of family and affordable housing to support local needs; increase the opportunity for specialist housing and the needs of other groups; support the diversification of the workforce; support greater opportunities to support the Council's wider economic growth aspirations; and support the opportunity for the Council to respond positively to appropriate cross boundary needs.
- 5.19 It is recognised that the Government has recently consulted on a significant alteration to the way in which housing need is calculated at a local authority level, which in Shropshire's case would lead to a considerable increase in annual housing requirement to a level far in excess of the proposed Local Plan housing requirement. However, the Council have raised significant issues with the Government's proposed methodology, along with many other Local Authorities, and as things stand this proposal has not moved beyond its consultation stage. It is therefore considered appropriate for Shropshire to progress with its Local Plan on the basis of the current housing need methodology.
- 5.20 The approach to distribution of development reflects the Council's previously stated preferred option, favouring an 'urban focussed' approach. It is considered that by virtue of the infrastructure and services Shropshire's largest settlements generally provide, there is a greater opportunity to deliver larger scale mixed use schemes, in doing so providing better conditions to support additional employment delivery and providing a better balance of growth.
- 5.21 It is legal requirement for Local Planning Authorities to fulfil the duty to cooperate with neighbouring and closely related Local Planning Authority areas on strategic matters. The Council has been engaged in discussions with these areas over the course of the plan preparation process. Ahead of the proposed submission of the Local Plan in January 2021, a series of Statements of Common Ground will be prepared and agreed with these areas.
- 5.22 At the July Cabinet, as part of Shropshire's Duty to Cooperate, it was agreed that 'in principle' Shropshire Council would accept up to 1,500 dwellings from the identified housing need of the Association of Black Country Authorities (ABCA) and that this would be incorporated into the housing requirement for Shropshire and distributed in line with the Strategic Approach included in draft Policy SP2. Meeting this 'unmet' need responded positively to the obligations placed on the Council as part of the Duty to Cooperate and has been met with broad support from ABCA. In accepting this need in principle, Shropshire joined a number of other Local Planning Authorities in the West Midlands in doing so.
- 5.23 Whilst ABCA are supportive of Shropshire's approach with regard to meeting unmet housing need, they have also responded to the recent consultation seeking further clarification on the Council's approach to employment land provision and requesting the Council considers accepting an element of their

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unmet employment land need. In broad summary, the ABCA's employment land supply provides around 305ha, leaving a shortfall of at least 263 hectares needing to be provided outside the Black Country Local Plan area.

- 5.24 Since July, the Council has further developed its consideration of economic need over the plan period, and an Economic Development Needs Assessment (EDNA) will be published alongside the Regulation 19 consultation. By way of early summary of this position, it is recognised that similar to the proposed housing requirement for the County, the proposed employment land provision of 300 hectares over the plan period is beyond the 'baseline' need scenario when looking at forecasted growth. This position is deliberate and responds to the Council's desire to see a 'step change' in economic growth in the County over the plan period; a position advanced by the Economic Growth Strategy.
- 5.25 With this in mind, it is therefore considered reasonable and appropriate for the Council to supplement its 'in principle' offer of housing need with an 'in principle' offer to meet up to 30 hectares of employment land from ABCA. It is again considered that this need can be accommodated in a sustainable manner in line with the Local Plan's proposed distribution of growth proposed in draft policy SP2, and would not require the identification of additional land in order to ensure its sustainable delivery. This offer is considered to respond effectively to Council's legal obligations under the Duty to Cooperate and if agreed, will be incorporated into the emerging Statement of Common Ground between the two planning areas.
- 5.26 At this advanced stage of plan making there are no other substantive issues arising from the conversations with adjoining authorities as part of the Duty to Cooperate.

Localised Strategies for individual settlements

- 5.27 In following the urban focussed approach the majority of the County's growth is captured in settlement specific strategies for Shropshire's network of Market Towns. For the majority of areas this includes proposed site allocations and guidelines on how development on these sites will be managed. It should be remembered that whilst the allocation of a site provides an 'in principle' support that development in this location can be supported, these will continue to be subject to the grant of future planning approval where the details of the development will be considered. Where local communities are currently preparing Neighbourhood Plans this has been reflected within the proposed strategies.
- 5.28 Whilst the focus of the plan is on the urban area, it continues to be important to plan effectively for Shropshire's rural areas, but in doing so recognising that growth opportunities in these areas should be more closely aligned with the ability of villages to provide a suitable standard of services and facilities. For this reason the Council opted early in the plan preparation process to provide a consistent methodology to the identification of Community Hubs, assessed through the Hierarchy of Settlements document. The conclusions of this process are included in schedule SP2.2 of the Pre-Submission Draft Plan, which identifies those areas which are proposed to act as Community Hubs. Policy SP7, along with individual Settlement specific policies, seeks to

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provide a framework for how development will be managed in these areas effectively and in keeping with the local character.

Strategic Sites and Settlements

- 5.29 The Pre-Submission version of the Local Plan proposes to allocate three strategic settlements/sites at the following locations:
- The Former Ironbridge Power Station which will form a new strategic settlement;
 - Clive Barracks, Tern Hill which will form a new strategic settlement; and
 - RAF Cosford which will facilitate MOD use and associated activities

Former Ironbridge Power Station

- 5.24 The former Ironbridge power station occupies a 350 acre site south of the River Severn near Buildwas. The power station ceased operation in 2015 and was purchased by Harworth Group in 2017 with a view to regenerating the site. The proposed inclusion of the site for inclusion within the Local Plan was consulted on as a preferred option in summer 2019. An outline planning application was subsequently submitted to the Council in December 2019 for a major mixed use development including 1,000 dwellings. Whilst the planning application is yet to be determined, it remains appropriate for the Council to continue to seek the site's inclusion within the Local Plan. It is expected that subject to the grant of planning approval, the site will be fully developed by the end of the plan period. The proposed development principles for the site are included in Policy S20 of the Pre-Submission Draft Local Plan

Clive Barracks, Tern Hill

- 5.25 Clive Barracks is a 50 hectare military site on the A41 near Market Drayton which is currently home to the Royal Irish Regiment. MOD announced the intention to close the barracks in March 2016, and have subsequently confirmed they now plan to complete the vacation and disposal of the site by 2025. The proposed inclusion of the site for inclusion within the Local Plan to form a significant mixed use proposal was consulted on as a preferred option in summer 2019. Local engagement on the site up to this point has helped to shape the proposed development guidelines for the site, which is proposed to provide employment land and around 750 homes as part of a new settlement, together with local services and facilities. Given the timeframe of the proposed disposal of the site, it is expected that around 600 homes will be delivered during the plan period to 2038. The proposed development guidelines for the site are included in Policy S19 of the Pre-Submission Draft Local Plan.

RAF Cosford

- 5.26 The national defence review has confirmed RAF Cosford as a key Ministry of Defence asset, but it is considered the potential for the area to meet its future operational defence requirements is restricted by its Green Belt location. Having considered the impact on national Green Belt objectives, as well as

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the benefits of doing so, it is considered there are exceptional circumstances for the site to be released from the Green Belt. In summary the strategic site will build upon its existing role as a centre of excellence for both UK and International Defence Training, host a specialist aviation academy, support opportunities to co-locate other Ministry of Defence units and activities, facilitate the intensification and expansion of the RAF Museum Cosford and allow the formation of a new headquarters for the Midland Air Ambulance Charity. The proposed development guidelines for the site are included in Policy S21 of the Pre-Submission Draft Local Plan

Other Strategic Site Considerations

- 5.27 In July, Cabinet agreed with the officer recommendation to omit land adjacent Junction 3, M54 from the Local Plan Review. This decision followed a long period deliberation, including a period of public consultation as part of the Strategic Sites consultation in summer 2019 where the Council confirmed it was considering the potential inclusion of land north of Junction 3 within the Local Plan. For the sake of clarity the land at Junction 3 has been actively promoted for a new garden village consisting of around 3,000 dwellings and 50ha of employment land, as well as the inclusion of local facilities and services. The decision in July recognised that, in the view of the Council, that there were insufficient exceptional circumstances in order to release this land from the Green Belt.
- 5.28 As part of the Regulation 18 consultation on the Draft Local Plan, Bradford Estates (site promoter for Junction 3), whilst maintaining their wider Garden Village proposal, have provided an additional proposition consisting solely of a strategic employment site, without residential development. Given the change in proposal the Council has taken the opportunity to reconsider the proposal. The Site Assessments, which will be published alongside the Regulation 19 consultation, provides a detailed overview of the council's considerations. In summary, it is maintained that in weighing up the competing considerations, including the benefits of providing a strategic employment area, there remains insufficient justification to release this land from the Green Belt. Accordingly it remains the view of officers that land at Junction 3 should not be included in the Local Plan and that this should area should remain as Green Belt.

Green Belt Release

- 5.29 Green Belt is perhaps one of the most widely known designations in the planning system. Green Belts cover parts of many local authority areas; in Shropshire's case significant areas in the east of the County are covered by the West Midlands Green Belt designation. The key purposes of the designation is to check unrestricted sprawl; prevent neighbouring towns merging; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration.
- 5.30 Permanence is a key feature of Green Belt boundaries, and their extent should only be altered where exceptional circumstances apply. It is however, appropriate for Local Plans to review Green Belt boundaries when required,

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and in Shropshire's case this was prompted in 2015 by the conclusions of the SAMDev Inspector's Report, which instructed that a review of Shropshire's Green Belt be carried out as part the Local Plan review process. To this end, in 2017 the Council commissioned a Green Belt Assessment in order to assess the extent to which the land within the Green Belt in Shropshire performs against the purposes of Green Belts (outlined in para 5.18). This was followed in 2018 by the publication of a Green Belt Review, which provides an assessment of the harm to the Green Belt purposes should particular parts of the Green Belt be released. The Council therefore have a comprehensive evidence base with which to support decision taking.

- 5.31 It is important to note that before seeking to release land from the Green Belt, the NPPF places a clear need for the strategic policy-making authority to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. In addition to accommodating the needs of RAF Cosford, and having considered local circumstances of need, the Pre-Submission version of the Local Plan proposes the removal of land from the Green Belt for allocations for employment development within the plan period to 2038 in Shifnal and Bridgnorth, and for mixed use and housing development in Alveley. The Pre-Submission Draft Plan also seeks the removal of land from Green Belt for to act as 'safeguarded land' for potential development beyond the plan period in Albrighton, Shifnal and Alveley.
- 5.32 The Council are aware that over the last few months there has been a particular focus on future development options at Bridgnorth. Bridgnorth acts as Shropshire's third largest settlement but which is constrained by Green Belt on its eastern side. The Regulation 18 consultation on the draft Local Plan in August and September this year proposed a major Garden Village proposal at Tasley as the preferred option to grow the town in a sustainable manner. This represented a significant shift in position from an earlier iteration of the Plan, which had suggested land at Stanmore to the east of the town within the Green Belt as the preferred direction for significant growth as part of the initial Preferred Sites consultation in 2018. It should be recognised that the recent consultation has led to a significant level of opposition to the preferred Tasley proposal. However, it should equally be acknowledged there has also been a significant number of responses welcoming the proposed removal of the proposed Garden Village scheme at Stanmore.
- 5.33 The Council's proposed inclusion of land to the south of the A458 at Tasley within the most recent Draft Local Plan followed an extensive site assessment process. This recognised the site's location outside the Green Belt, but also went further to assess the site against a range of material considerations. The consultation in summer 2020 led to a significant level of response from residents of Bridgnorth, alongside those from local town and parish councils. It also prompted further detailed information from the site promoters of both the Tasley and Stanmore site promoters on a range of material planning considerations. Given the level of new information provided, as well as the significant of level of local interest, the Council has undertaken a re-appraisal of the two site options for the town.
- 5.34 Appendix 2 to this report provides a detailed summary of the site assessment considerations undertaken by the Council since the close of the recent

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Regulation 18 consultation. In summary, having considered the competing site proposals against a full range of material considerations, it is maintained that the Tasley Garden Village proposal should be preferred for development to support a comprehensively planned mixed use development to meet the housing needs of Bridgnorth over the plan period. Conversely, it continues to be recommended that the majority of the Stanmore proposal should remain designated as Green Belt and should not be identified for future development. The exception to this is land north and west of the existing Stanmore Industrial Park, where it continues to be considered that the release of land from the Green Belt would be beneficial in supporting the future expansion needs of the Industrial Park to meet employment requirements.

Strategic and Development Management Policies to Guide New Development

- 5.35 The NPPF states that Local Plans should contain policies that are clearly written and unambiguous, and that a development plan must include strategic policies to address an area's priorities for the development and use of land in its area. A Local Plan can also include a series of non-strategic (or detailed) policies to address other more specific issues.
- 5.36 The Regulation 19 Pre-Submission Draft version of the Local Plan contains a number of Strategic and Development Management policies, covering a wide spectrum of issues and considerations relevant to the pursuit of sustainable development including climate change; supporting high quality design; managing development in the countryside; delivering affordable housing; ensuring a suitable residential mix of development; and managing and minimising flood risk. When adopted, these policies will replace the current development management policies in the Core Strategy and the SAMDev Plan.
- 5.37 Whilst the Local Plan should be the starting point for taking decisions on planning applications it does not sit in isolation. To this end many of the proposed development management policies make reference to other strategies being prepared by the Council, including the adopted Economic Growth Strategy 2017-2021, the emerging Housing and Climate Change Strategies, and the Shrewsbury Big Town Plan. In doing so these strategies will be a material factor in decision making.

6 Next steps

- 6.1 Subject to Cabinet approval, the Pre-Submission Draft of the Local Plan, along with the associated documents will be published for consultation for a period of seven weeks. It is proposed this consultation will begin on Wednesday 16th December and run until Wednesday 3rd February 2021, subject to the considerations outlined in para 6.2. Throughout the plan preparation process officers have sought to engage constructively with communities, Parish and Town councils, and elected representatives on

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emerging preferred options. Whilst in many cases this has led to a consensus of opinion on issues, it is recognised there remains areas where there is likely to be opposition to proposals and that in some areas elected representatives have voiced their objections to proposals included within the Regulation 19 Pre-Submission Draft Plan. The statutory consultation process is an opportunity for communities, Parish and Town Councils and elected representatives to submit their comments on the soundness of the Plan, and these will be considered ahead of the proposed submission of the Local Plan to Government for examination in January 2021. All responses which are made to the Regulation 19 consultation will be made public, and will be submitted to the Planning Inspectorate for consideration at the Independent Examination.

- 6.2 The Consultation on the Pre-Submission Draft of the Local Plan must meet the Town and Country Planning (Local Planning) (England) Regulations 2012, as a minimum. For clarity this means the Pre-Submission Draft of the Local Plan must be made available for inspection at the Council's principal office (in this case Shirehall) and at such other places within the authority area as the Council consider appropriate, which has in previous stages of consultation been libraries. It is acknowledged that due to the Covid 19 national emergency there have been restrictions placed on public access into Council premises, and it is recognised that this will need to be addressed as a matter of priority before the consultation can begin. Consultation arrangements must also meet the requirements of the Council's Statement of Community Involvement (SCI). A significant number of organisations and individuals will continue to be notified directly of the publication of the consultation documents in accordance with the SCI. Electronic responses are encouraged to reduce printing and distribution costs and to reduce the time spent collating and analysing paper responses.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Robert Macey, Portfolio Holder for Housing and Strategic Planning
Local Members All
Appendices 1. Shropshire Local Plan 2016-2038: Regulation 19 Pre-Submission Draft Local Plan plus associated Policies Map and Inset Plans 2. Bridgnorth Development Options Assessment – November 2020 3. Local Development Scheme (LDS) – November 2020 4. Summary of Responses on the Regulation 18 Draft Local Plan Consultation

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Appendix 9

Shropshire email to ABCA undated (July 2018)

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Representor: A0137



Thank you for your letter of 12th July concerning the above. Shropshire Council's Planning Policy and Strategy Manager, [REDACTED], attended your most recent Duty to Co Operate meeting in February 2018.

Strategic Planning in Shropshire

In the context of your request for an update regarding our local plan review status, I am pleased to confirm that Shropshire Council's Core Strategy was adopted in 2012 and its site allocations plan (known as SAMDev) was adopted in 2015. These documents cover the period 2006 – 2026 and established growth guidelines of 27,500 dwellings and 290 Ha of employment land for this period. Further information is available here: <https://www.shropshire.gov.uk/planning-policy/local-planning/> The Council adopted a new Economic Growth Strategy <https://shropshire.gov.uk/business-support/economic-growth-strategy-2017-2021/> in September 2017.

In order to help deliver its objectives and keep our Local Plan up to date, the Council initiated a Local Plan Review in 2016 and published preferred options for the scale and distribution of growth for the period 2016 – 2036 late last year. This established growth guidelines of 28,750 dwellings and 300Ha of employment land. The Council currently has identified housing need of 25,400 dwellings and a housing land supply of 6.04 years. Further information is available here: <https://www.shropshire.gov.uk/planning-policy/local-planning/local-plan-partial-review-2016-2036/evidence-base/> The Council plans to publish preferred site options for its main market towns, together with growth guidelines for smaller rural service settlements (known as 'Community Hubs') in October 2018. These settlements will provide sufficient growth capacity to meet the preferred level of housing growth. However, in addition to these sites, a number of strategic site opportunities have been promoted which could provide additional housing and employment land growth potential in excess of the identified growth guidelines. Shropshire Council will consult on preferred options for these sites in spring 2019. Our Local Development Scheme was updated in May 2018 and currently assumes that the Local Plan Review will be submitted for examination at the end of 2019. Further information is available here: <https://www.shropshire.gov.uk/planning-policy/local-planning/local-development-scheme-lds/>

Cross Boundary Development Needs

Whilst Shropshire is located in a different Housing Market Area to the Black Country, we acknowledge that there exists a functional economic relationship between Shropshire and the Black Country. In this context, Shropshire Council has recently commissioned consultants GVA to carry out a strategic options study of the M54 corridor to examine the strategic economic context and potential opportunities for economic growth. Given the geographical proximity of parts of eastern Shropshire to the Black Country, we recognise that there is merit in further discussion about the potential for Shropshire to help meet cross boundary needs from the Black Country. As explained above, our preferred sites consultation in October will address both our currently identified housing needs and provide for the delivery of a housing requirement greater than this need. Therefore any other strategic proposals which have been promoted through the current Local Plan Review process would help us to provide a non-delivery allowance for Shropshire and might also provide headroom to cater for cross boundary needs. However, such proposals will need to be consistent with the objectives of our EGS and will need to be accompanied by extensive infrastructure investment, and for sites in the Green Belt we must ensure the ability to demonstrate exceptional circumstances in order to meet the requirements of the current and emerging NPPF.

We would welcome further discussions in relation to this potential as our work progresses, particularly in relation to the M54 corridor.

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Best wishes

[Redacted signature]

[Redacted signature]

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Appendix 10

Market Need Assessment Update – Strategic Employment Area J3 M54 - Savills May 2022

Submitted separately due to file size

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Representor: A0137



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Appendix 11

Additional Explanation to Matter 2 Question nos: 1-5, 7-9, 11,13,14

1. Introduction

1.1. BRE Representations

1.1.1. Bradford Rural Estates (**BRE**) represented at the time by Bidwells submitted objections at Regulation 19 to the policy, supporting text and tables as relevant of SP2, SP11, SP12, SP13, SP14, SP15, SP16, DP3, S3, S15. Details of BRE's representations were set out in an overarching statement, which introduced and explained the points of concern, including compliance with the duty to cooperate (Bidwells Regulation 19 Statement 1.8 and 1.10).

1.1.2. The essence of BRE's objections is:

- That there is substantial unmet need for employment and housing arising from the Black Country Authorities (**BCA**).
- The best and possibly only location to make provision to meet the BCA need is the allocation of a strategic site in the M54 Corridor between J2 and J4.
- The Council has acknowledged that there is a functional economic, migratory and travel to work area relationship between Shropshire and the Black Country and that it is therefore appropriate for Shropshire to address BCA need.
- Despite appearances that the Council has accepted to provide for 1,500 homes and 30ha of employment land, no additional land has in fact been allocated for employment or housing above what was already proposed for Shropshire's needs, and no specific land has been allocated to provide for BCA needs.
- Meeting the need would be mutually beneficial for the Council and BCA. A strategic site allocation in the M54 Strategic Corridor firmly squares with the evidence of the Council's strategic priorities.
- The BCA need has not been adequately responded to. This is a failure of the duty to cooperate process. The evidence displays that there are multiple failures to conduct the co-operation process in the manner required by s33A, NPPF and PPG. The failures include lack of consideration for how the whole of the need that has been identified should be met and transparency about how the amounts accepted by the Council were decided. The failure in co-operation is accompanied by failure in the Sustainability Appraisal to assess the socio-economic benefits of allocating a strategic site, and also failure to assess alternative options of making greater provision for BCA needs than is proposed.
- The failure to adequately and effectively respond to the needs of BCA through the strategic approach, has resulted in a Plan which is not positively prepared, not an appropriate strategy

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taking account of the evidence and alternatives available, and is not based on effective joint working on cross boundary strategic matters. In failing all of these measures the Plan is not consistent with national policy.

- 1.1.3. A full explanation of the legal failures in the exercise of the duty to cooperate is set out in the opinion of Matthew Reed QC which is enclosed at Appendix 1. A summary of the duty to cooperate failures is set out in the introductory section to Appendix 11.

1.2. Post Regulation 19 Consultation New Evidence

- 1.2.1. Since the consultation on the Pre-Submission Plan in February 2021, the Council has published the information which it appears to be relying upon to demonstrate it has complied with the duty to cooperate. Other evidence which informs the assessment of the legal compliance with the duty to cooperate has been published by BCA alongside Regulation 18 consultation on the Black Country Plan. A list of each are enclosed at Appendices 2 and 3. With the exception of Regulation 19 representations of ABCA, Walsall and Dudley, we are not aware of the listed documents published by BCA yet being available in the Examination library.

1.3. Shropshire and Black Country Mutual Benefits

- 1.3.1. There is significant merit in making a strategic allocation at J3. The M54 Growth Corridor Strategic Option Study (M54 Study) recommended that the J3 site be taken forward. The M5 Study recognised the substantial economic benefits that would arise from the development coming forward and it's potential to help deliver Shropshire's growth ambitions . The M54 Study states the J3 site is in a prime location relative to the motorway and rail network and controlled by a single landowner who is engaged in the Plan review process. It thus provides Shropshire with a significant opportunity to deliver development to support economic growth and housing requirements The importance of the opportunity was recognised in the Strategic Site Consultation 2019 (SSC) paras 3.5 – 3.8.
- 1.3.2. As stated at SSC para 3.18, the Council considered that it is not necessary to allocate a strategic site at J3 to meet its own needs, but at para 3.20 the Council agreed that subject to the work being undertaken by the BCA (to confirm the need), there may be potential for Shropshire to agree to provide for some of this shortfall through the construction of a strategic employment site and housing as part of a new planned settlement at Junction 3 of the M54. The Council recognised the importance and uniqueness of the opportunity for a strategic site allocation at J3 to accommodate BCA needs when it stated at para 3.26: this proposal may represent a "once in a generation opportunity to meet cross-boundary needs, through delivery of nationally significant employment opportunities, high quality housing and a local centre to provide services, facilities and infrastructure as part of a planned new settlement within an important strategic corridor". The Council requested further information at SSC para 3.28 which has been provided by ABCA through its evidence base and by BRE through the suite of technical documents submitted with its Regulation 19 representations.

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- 1.3.3. The BCA have since confirmed the need and demonstrated that there is not capacity within their urban area, that the Black Country green belt has been assessed and sites have been identified for release where possible, and that other cross boundary sources of supply are being pursued, but as yet with no commitments that have been confirmed through a Local Plan process. The evidence is within the evidence base to the BCP as set out at Appendix 3 together with the ABCA correspondence EV041.02, letter from Wolverhampton explaining evidence EV041.04, endorsement of that Wolverhampton letter from ABCA EV041, and ABCA, Walsall and Dudley representations to the Regulation 19 Plan. The most recent letter from ABCA dated 26 April 2022 confirms the continuing need as referenced at para 1.4.3.
- 1.3.4. Significant work was carried out by the Council to assess infrastructure capacity and viability including a workshop in February 2020 attended by BRE, consultation on a Viability Assessment in February 2020. The Council produced Place Plans for Shifnal and Albrighton with the BRE J3 site straddling the boundary. The Place Plans are infrastructure delivery plans and raise no concerns about capacity. The Council also commissioned a Vision Study for the Shrewsbury Telford Wolverhampton Strategic corridor to feed into later stages of the Plan. No constraints were identified which would prevent the J3 site coming forward.

2. Q1 What are the genuinely strategic matters for the Local Plan as defined by S33A (4) of the Planning and Compulsory Purchase Act?

2.1. Black Country Housing and Employment Need

- 2.1.1. The Association of Black Country Authorities (**ABCA**) first requested assistance with meeting Black Country housing needs by letter dated 12 July 2018 sent to all Greater Birmingham and Black Country Housing Market Area (GBBC HMA) authorities and other neighbours including Shropshire. The ABCA letter referenced the Black Country Urban Capacity Report 2018 and the Birmingham and Black Country HMA Study then recently published (Feb 2018 GL Hearn). ABCA identified a shortfall in the region of 22,000 dwellings and 300ha of employment land, both being needs for the Black Country only. Neither amount includes any provision towards Birmingham's unmet need and West Midlands strategic employment site needs.
- 2.1.2. The Black Country shortfall was updated with the publication of the Regulation 18 Black Country Plan (BCP) in July 2021. The housing shortfall had increased to 28,239 dwellings and the employment shortfall was identified as 210ha.
- 2.1.3. The latest position regarding the unmet needs of the Black Country are set out in a letter from ABCA to the GBBC HMA and neighbouring authorities, dated 27 April 2022. The letter records that requests for assistance with meeting needs were made in July 2018 and August 2020. In response to those requests there is as yet no committed provision in adopted development plans. There are housing offers of 1,500 from Shropshire and 2,000 from Lichfield. The Shropshire Plan is submitted, the Lichfield Plan was approved to be submitted by Lichfield Cabinet on 10th May 2022. There are offers of an undetermined proportion of up to 500 from Cannock Chase and up to 4,000 from South Staffordshire and a small proportion from 2,000 from Solihull. ABCA states that in total these offers could realistically provide up to 8,000 dwellings¹⁹. However, with none of those offers yet confirmed through adopted plans and with the proportion dependent offers largely in early stage plans, there remains considerable uncertainty about any of that cross boundary provision.
- 2.1.4. Optimistic potential scenarios of additional cross boundary provision are set out by ABCA citing higher growth scenarios and potential contributions from Stafford, Bromsgrove and Telford. Even with the maximum cross boundary provision ABCA suggest, significant residual unmet need remains. Table 1 summarises the housing need position as stated by ABCA.

¹⁹ ABCA letter 27th April 2022 para 8

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Table 1 Black Country Residual Unmet Housing Need

Source	Potential contribution	Residual unmet need
Black Country unmet need		28,239
Known amount proposed provision in submitted / about to be submitted plans	3,500	24,739
Potential provision in draft plans	Proportion of up to 6,500 ABCA estimate 4,500	At least 20,239
Possible offers yet to be consulted upon	Up to 8,700	At least 11,539

- 2.1.5. Table 2 sets out the employment land position as stated by ABCA. The ABCA letter states that the potential contribution from South Staffordshire (West Midlands SRFI) would, on a proportional basis, satisfy BCP needs for B8 land. We understand that statement to be incorrect as there is no distinction of being specifically for E (g) (ii) (iii) or B8 in the proposed allocation of sites in the draft BCP. We understand there is no assessment of the identified BCP supply determining which sites are suited for E(g) use and which for B8 use. Therefore, the unmet need is for all employment uses.

Table 2 Black Country Residual Unmet Employment Need

Source	Potential contribution	Residual unmet need
Black Country unmet need		210ha
Known amount proposed provision in submitted plan	30ha	180ha
Potential provision yet to be consulted upon	67ha	113ha

- 2.1.6. The request for co-operation to meet need for 22,000 homes and 300ha of employment was set out in a letter from ABCA to Shropshire and other LPA dated 12 July 2018 (EV041.01) see para 1.2.9 above.
- 2.1.7. The subsequent representations of ABCA to the Preferred Sites Consultation (EV041.02) confirmed the same levels of unmet need. ABCA expressed specific interest in those needs being met in the M54 Corridor. See 1.2.10 – 1.2.11 above.

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2.1.8. ABCA representations to the Strategic Sites consultation (September 2019), ABCA letter of update on its unmet need (4 August 2020), separate ABCA, Walsall and Dudley representations to the Regulation 19 Plan (February and March 2021) and the most recent update letter from ABCA (26 April 2022) all repeat the request for employment and housing provision to be made for BCA needs. The representations to Strategic Sites and Regulation 19 seek specific provision for BCA needs through a strategic site allocation at M54 J3. The latest position in the 26 April 2022 ABCA letter shows that since July 2018, the unmet housing need has increased from 22,000 to 28,234. The unmet employment need has reduced from 300ha to 210ha. There remains no confirmed provision for either housing or employment. Even with the best case scenario assumptions of cross boundary provision set out by ABCA of 16,700 homes and 97ha employment (including 1,500 homes and 30ha from Shropshire), there remains a shortfall of 11,500 homes and 108ha employment land.

2.2. Birmingham unmet housing need

2.2.1. Prior to the BCA need, there was already a known 37,900 housing shortfall arising from the Birmingham Plan adopted in 2017. When combined, these unmet needs amount to 60,000 homes. The Housing Topic Paper (**HTP**) only refers to account having been taken of the strategic implications arising from the Black Country shortfall. However, it is considered that the pressures arising from Birmingham's unmet housing need also have a bearing on the Black Country unmet housing need.

2.2.2. Although there is no specific request from Birmingham for assistance from the Council in meeting its need, there is an ongoing and unresolved discussion amongst the 14 LPA of the Greater Birmingham and Black Country Housing Market Area (GB&BCHMA) as to how that need should be met. The Council would be aware of that wider strategic housing need, and that with BCA unable to meet their own needs it follows that BCA are unable to contribute to meeting any shortfall for Birmingham. This serves to increase the importance of meeting the BCA needs, so that there is not additional pressure unmet need within the GBBC HMA.

2.3. Regional Employment Sites Need

2.3.1. SEGS is consistent with the WMCA SEP, in that WMCA SEP always intended that Shropshire participate in the achievement of the WMCA SEP objectives. The strategic economic objectives of the Plan should therefore be closely aligned with the WMCA SEP, WMSESS, Land Commission as well as the SEGS and the Marches SEP.

2.3.2. Those same economic strategy documents highlight the close relationship between the economic growth which is being targeted and the need to provide sufficient housing of the right type and quality in the right locations to meet needs.

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- 2.3.3. The regional need for strategic employment sites of more than 25ha which could attract nationally or internationally mobile business activity, is a further strategic need as identified by the WMSESS 2015 and 2021. The West Midlands Land Commission Report (2017) also identified an urgent need for strategic employment sites to be brought forward through plans. Further details of the findings of the WMSESS are set out at Appendix 3.
- 2.3.4. The needs of the region are relevant strategic matters for the Plan because the strategic priorities of the Plan and the evidence base are to implement the SEGS. That requires the Plan to accelerate economic growth, employment and productivity and focus on mutual priority actions with WMCA including the Land Commission.
- 2.3.5. The Regulation 19 representations of Walsall Council and Dudley Council both reference the WMSESS identified need for strategic sites and the role Shropshire can play in contributing towards meeting that need.

2.4. Council Acceptance of Strategic Needs

- 2.4.1. The Council first acknowledged a functional economic relationship between Shropshire and the Black Country in its reply to the ABCA letter EV041.01. Subsequent statements in the Plan and Cabinet reports in July and December 2020 confirm the Council accepts the BCA need is a strategic matter for the Plan.
- 2.4.2. There is no explicit acceptance of regional employment site or Birmingham housing need as being strategic matters although the EDNA recommends that the Council address the regional employment need. The extension of the evidence as explained above, indicates that both are also strategic matters for the Plan in addition to the BCP need.

3. Q2. Who has the Council engaged with in terms of overall housing provision and what form has this taken?

- 3.1.1. The Consultation Statement (SD004) confirms that Shropshire considers it appropriate to undertake the duty to cooperate with the Black Country Authorities (BCA)²⁰. The letter accompanying the submission of the Plan confirms that Shropshire consider the Black Country need has been evidenced²¹.
- 3.1.2. SD004 states that positive engagement and discussions led to Shropshire's proposals of 1,500 dwellings and 30ha²².
- 3.1.3. The statements at SD004 4.7 and 4.21 indicate that prior to the BCA requesting assistance, Shropshire only considered the need to cooperate with *adjoining* LPAs rather than LPAs which do not share a boundary. It was not until ABCA raised BCP needs with Shropshire in July 2018 that any consideration was given to cooperation with BCA.
- 3.1.4. PPG sets out the Council and BCA should have produced a statement of common ground (SOCG) at the outset, which should have: included any other LPA with a potential role to play in meeting the need, defined the matters to be addressed, defined the governance arrangements for cooperation, the housing and employment requirements of the areas covered, a process for agreeing the distribution of need, and an ongoing record of progress.²³ As cooperation progressed, the SOCG should set out the capacities of each plan area, the extent of unmet needs and the matters of agreement and disagreement. The process of cooperation should have included producing joint research and evidence, assessing impacts of emerging policies and jointly preparing strategic policies to coordinate development across boundaries²⁴.
- 3.1.5. As a minimum SOCG should be published by the time a draft plan is published. In this case that would have been before the Preferred Sites consultation in 2018. If the governance arrangements for the cooperation had been set out at this stage as required²⁵, then the process of cooperation could be expected to have been more successful in addressing the BCA and strategic needs.

²⁰ SD004 para 4.10

²¹ Shropshire letter to Planning Inspectorate 3 Sept 2021 page 5 para 2

²² SD004 para 4.11 and 4.25

²³ Planning Practice Guidance Paragraph: 011 Reference ID: 61-011-20190315 Revision date: 15 03 2019

²⁴ Ibid Paragraph: 015 Reference ID: 61-015-20190315 Revision date: 15 03 2019

²⁵ Ibid Paragraph: 020 Reference ID: 61-020-20190315 Revision date: 15 03 2019

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- 3.1.6. The Black Country Plan (**BCP**) Duty to Cooperate Statement (therefore not evidence produced by the Council) includes at appendix 3 a list of meetings with the Council. The list includes 5 dates between Regulation 18 and Regulation 19 submissions. The BCP DTC Statement provides no detail of the subject or attendance at those meetings. The statement in the ABCA Regulation 19 representations suggests that if those meetings did take place, that nothing of substance was discussed. The lack of evidence from the Council of any meetings taking place, and only dates of purported meetings provided by ABCA raises significant question over whether any meetings of relevance to the duty to cooperate did take place. Even if they did, there is no evidence of their having done so either in the SOCG or elsewhere. PPG does not require recording of every meeting²⁶, but does require comprehensive and robust evidence of the efforts made to cooperate and the outcomes achieved²⁷.
- 3.1.7. The SOCG with ABCA records a position of both parties expecting to deal with additional unmet need for the BCA through a subsequent plan review. There is disagreement about the certainty of that review. However, as a principle the deferral of meeting known or likely unmet need until a plan review is evidence of failure of the cooperation process required by the s33A duty.
- 3.1.8. It is clear from the above that the effectiveness of the preparation of the Plan has not been maximised with regard to considering the strategic needs of the Black Country. It is also clear that co-operation has not been constructive, active, or on an ongoing basis. Consequently, the Duty to cooperate has not been complied with. Please refer to Appendix 11 Q2 for further explanation of the failures in the engagement required by the S33A duty to cooperate.
- 3.1.9.

²⁶ Planning Practice Guidance Paragraph: 011 Reference ID: 61-011-20190315 Revision date: 15 03 2019

²⁷ Planning Practice Guidance Paragraph: 022 Reference ID: 61-022-20190315 Revision date: 15 03 2019

4. Q3. What are the relevant inter-relationships with other neighbouring authorities in terms of migration, commuting and housing markets?

- 4.1.1. As set out in our response to Q1 above, it appears from the Housing Topic Paper that the Council's consideration of cross-boundary support has been narrower than should have been the case with a more complex housing shortfall than has been presented.
- 4.1.2. We consider that the approach taken by Shropshire has been dictated by current migration levels and not the strategic objectives providing opportunities for growth along the strategic corridor (M54/A5). Where patterns of out-migration show Shropshire as one of the highly connected authorities to the Black Country, then it must follow that more dwellings can be provided for and the current migration levels should not be seen as the upper limit to new provision, especially where the wider Greater Birmingham and Black Country HMA is already heavily constrained and unable to meet its own need, which should lead to a basic starting point that any existing patterns of out-migration will likely increase as a result.
- 4.1.3. Paragraph 3.18a refers to Shropshire's approach being in a way which "recognises the functional relationship between the areas and which respects the character of Shropshire". Paragraph 3.38 goes on to emphasise the preference of securing housing provision in the wider Housing Market Area (HMA) and to a lesser extent in the Functional Economic Market Area (FEMA).
- 4.1.4. The Housing Topic Paper (HTP) GC4i Paragraphs 3.44-3.65 provide a review of the migration and commuting patterns, between Shropshire and the Black Country and vice versa, travel to work areas and summarises existing road and rail links. Patterns of migration however, should not be the only influence on the provision for BCA housing needs, as they are one time only movements that reflect life stages and life choices. Patterns for commuting are also relevant, and show that there is a strong relationship between Shropshire and the Black Country.
- 4.1.5. When the restrictions on potential suitable and available land for dealing with the housing shortfall in Birmingham and the Black Country are factored into the pattern of movement (migration and commuting) we consider that the base position (existing migration trends – see paragraph 3.86) is too narrow and flawed.
- 4.1.6. The evidence demonstrates flows of commuters in each direction, to and from different areas of Shropshire and the Black Country. However that should not be the only thing that dictates where new housing or employment provision is focused. To maximise economic growth and maximise the benefits of greater links between Shropshire and the WMCA (including Black Country), Shropshire should have taken account of other evidence. For example, Shropshire's role within the sub-regional area, its spatial position and functional relationship, and the environmental and physical constraints faced within the wider GBBCHMA, that may affect the migration and commuting patterns they have relied upon.

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- 4.1.7. Paragraph 3.89 of the Housing Topic Paper GC4i (HTP), acknowledges that “changes to migration patterns will result in both increased levels of out migration from the Black Country Authorities and reduced levels of in migration to the Black Country Authorities.” Although the HTP states that it is “impossible to predict the level of change to each component” it fails to take a positive response to the likely changes in migration patterns which will undoubtedly lead to an increase in the role that Shropshire should take in supporting the Black Country.
- 4.1.8. Attached (Appendices 5 and 6) are ONS data tables and figures which illustrate that after Birmingham and South Staffordshire, the third highest flow of people migrating from the Black Country is to Shropshire, with Birmingham and Staffordshire. This shows that existing residents of the Black Country wishing to leave the Black Country, have a high propensity to relocate to Shropshire. The reasons for those relocations are not revealed by the data. The point is that such migrations will draw upon housing supply in Shropshire regardless of cross boundary provision. The opportunity is to make housing provision to meet both Shropshire and BCA needs which has mutual benefits and can deliver the type of migrants that Shropshire wants into a location where they can contribute to the growth of the Shropshire economy.
- 4.1.9. If the Council’s consideration of commuting inter-relationships had gone into more detail, and considered the close working relationship and alignment of objectives with Midlands Connect as set out in the SEGS (chapter 3) then the focus for delivery of housing to meet needs would be where it can contribute to and benefit from planned infrastructure improvements to use rail to enable growth to support wider WMCA objectives. The SEGS highlights the example of electrification of the Wolverhampton to Shrewsbury line²⁸ which runs within the M54 Strategic Corridor. On the face of the information, migration has been identified by the Council as a factor, and appears to have been the sole determinant of the housing figure to accept.
- 4.1.10. The strategic approach of the Plan has no regard to the strategic objectives of the wider area and the infrastructure investment proposed. In particular:
- South Staffordshire’s emerging Plan – which includes proposals for major housing (1200 dwellings) and employment at M54 Junction 2 (proposed allocations for 40ha expansion of i54 and 36ha at ROF Featherstone);
 - Electrification and extension of main line rail between Shrewsbury and the Black Country - in June 2021 Midlands Connect launched a Feasibility Study proposing the electrification of the rail line through Telford and the Black Country and extending London services to Shrewsbury to create up to £500 million of benefits for businesses and residents; and
 - M6 / M54 New Motorway Junction – following an application made by Highways England in January 2020, in April 2022 the Secretary of State for Transport granted development consent for the new junction which is considered will bring sustainability (climate change and other environmental) benefits alongside economic benefits to Shropshire.
- 4.1.11. These are all relevant to the consideration of how the evidence of migration and commuting is applied to the consideration of meeting strategic needs.

²⁸ Shropshire Economic Growth Strategy 2017 p19

5. Q4. How have these inter-relationships been considered in preparing the Local Plan in terms of identifying the Local Housing Need (LHN) and setting the Local Plan's Housing Requirement?

- 5.1.1. As noted at Housing Topic Paper (HTP) 3.71 the conclusion was reached that the distribution of growth in the draft Plan was considered to offer potential to accommodate a proportion of the BCA unmet need.
- 5.1.2. The HTP then sets out an analysis of the proportion of BCA out migrations that go to Shropshire and then applies that percentage to the level of unmet need to justify the proportion of unmet proposed to be accepted by the Council. As noted in our response to Q3, this is a source of housing demand which Shropshire would have to bear in any event. It is not an appropriate basis to determine the amount of provision Shropshire should make, nor does it relate that provision to attainment of the Council's strategic priorities as evidenced through the evidence base, or the strategic priorities of the BCA and WMCA with which the Council is supposed to be aligned.
- 5.1.3. Having found a measure to rationalise a contribution of 943 dwellings, the Council states that it then used a range of 'wider considerations' to round that offer up to 1,500. No analysis of the factors is provided and there is no discussion of the alternatives that were considered, or how any alternatives were assessed, or how these were discussed with ABCA. Aside from providing less than clear evidence of the process undertaken, the fact that it is presented in the HTP (February 2022) more than 18 months after the decision about what to accept was taken (July 2020), indicates that the explanation is designed to justify the decision after the event.
- 5.1.4. The HTP (paragraph 3.83 and Figure 12) explain that the Council's baseline assumption for commencing its calculation for supporting the BC housing shortfall at 3.34% is taken from the total internal migrants from the BC that move into Shropshire. Our analysis of ONS data (presented in the table below) shows that Shropshire consistently receives more than 6% of the out migration from BCA to the key authorities in the wider GBBCHMA. We therefore consider that as the Duty to Cooperate only involves the LPAs who are considered neighbours or have functional relationship, then the calculation of migration should have only been based on the movements between these LPAs.
- 5.1.5. Our analysis also shows that 44% of out migration from the BCA is directed to Birmingham. As it is widely known that the adopted Birmingham Plan has an unmet shortfall of 37,900 dwellings, it stands to reason that apportionment of the BCA unmet need cannot be done on the simple methodology the Council employs, as it would leave much of the 44% of BCA unmet needs (Birmingham's 'share') unaccounted for. The Council's methodology is fundamentally flawed, and fails to have regard to the wider context and the ability or the inability of BCA needs to be met by others.

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Black Country out-migration flows to HMA Authorities – source ONS

Year	Authority														Total	Shropshire % of total
	Birmingham	South Staffordshire	Shropshire	Cannock Chase	Wyre Forest	Telford and Wrekin	Lichfield	Bromsgrove	Solihull	Stafford	Redditch	Tamworth	Stratford on Avon	North Warwickshire		
2012	7,110	2,380	840	710	660	560	590	640	320	340	120	150	90	110	14,620	5.75%
2013	6,710	2,470	910	690	660	650	680	540	380	340	90	130	100	90	14,440	6.30%
2014	7,040	2,630	900	690	770	690	690	640	340	340	140	130	90	90	15,180	5.93%
2015	6,630	2,710	870	690	850	710	700	660	290	320	180	120	120	80	14,930	5.83%
2016	6,740	2,760	890	640	730	740	660	690	370	320	160	150	110	110	15,070	5.91%
2017	7,870	3,210	1,240	990	820	940	880	790	490	470	130	160	150	120	18,260	6.79%
2018	7,791	2,969	1,280	1,054	868	904	856	958	521	498	174	176	147	162	18,358	6.97%
2019	8,338	3,190	1,377	1,102	981	1,072	998	942	586	508	215	198	156	120	19,783	6.96%
2020	7,124	2,669	1,087	1,022	871	943	775	715	383	434	190	180	127	128	16,648	6.53%
Total:	65,353	24,988	9,394	7,588	7,210	7,209	6,829	6,575	3,680	3,570	1,399	1,394	1,090	1,010	147,289	6.38%
Total as % of all out migration	44.37%	16.97%	6.38%	5.15%	4.90%	4.89%	4.64%	4.46%	2.50%	2.42%	0.95%	0.95%	0.74%	0.69%	100.00%	

6. Q5. What is the justification for the allocation of 1,500 homes to meet some of the unmet housing need from the Black Country?

- 6.1.1. HTP (paragraph 3.87) explain that based on the ABCA forecast of an unmet housing need of 28,239 homes, Shropshire's contribution would be 943 dwellings. Paragraph 3.96 of the HTP goes on to explain that the 943 figure was "rounded up to 1,000 dwellings for robustness". We do not consider a rounding up of a mere 57 dwellings (2.5 dwellings p.a.) to be robust in the context of the scale of the BCA need or the wider strategic needs arising from the GBBCHMA.
- 6.1.2. The HTP (paragraph 3.89) confirms the worsening situation but then goes on to state "it is impossible to predict the level of change to each component." Whilst predicting the change may indeed be difficult, recognising the wider issues and constraints (that have been documented for many years) is less difficult and the approach taken by Shropshire does not take the consideration of these issues much further than a 3.34% offer with a bit of rounding up and some further considerations (HTP 3.94-3.114) that leads to a 1500 offer. There is no evidence whatsoever as to how the jump from a rounded figure of 1,000 to 1,500 was made using any meaningful calculations or evidence to justify the figure or why some higher figure should not have been provided.
- 6.1.3. HTP paragraph 3.32) refers to the contributions being made by other neighbouring authorities and appears to be used as further justification that the 1500 dwellings the Council is offering is in some way comparable or even reasonable.
- 6.1.4. HTP para 3.113 lists other 'wider' considerations which the Council claims to have taken into account when adjusting the accepted contribution from 948 to 1,500. At face value these considerations provide no greater or additional justification for the level of accepted provision or the manner in which it is provided for. As noted in the opinion of Matthew Reed QC (Appendix 1) the only factors which appear to have been taken into account by the Council in determining the amount of housing need to accept from the BCA, are the proportional share of migration flows from the Black Country to Shropshire and the criteria at HTP para 3.113. As explained in our response to Q4, the use of migration data as the basis for the quantum is fundamentally flawed. We comment briefly on each wider HTP para 3.113 consideration in turn, but each of these points, properly considered, suggest that there should be greater provision to meet ABCA's needs, not less:
- 6.1.5. A.) The spatial strategy is focused upon urban and widely interpreted strategic corridors and seeks to extrapolate previous spatial growth patterns. Such an approach fails to acknowledge and respond to the evidence of strategic priorities, which are to focus on collaboration and mutual priority actions with WMCA, accelerate economic growth, respond to the Land Commission and address the skills gaps and leakage of skilled young population from Shropshire. The achievement of these objectives requires something other than or in addition to the allocation of small sites in existing urban areas. The evidence shows that the allocation of strategic sites in strategic corridors is required to provide for housing and employment to achieve the 'step change' which is sought.

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- 6.1.6. B.) the strategic objectives of the Council as noted in the paragraph above are entirely aligned with BCA objectives for its housing and employment needs quantitatively and qualitatively to be met in a location and in a form of development which can serve the needs of the BCA. The BCA has made clear its desire to see greater levels of housing and employment land provision and for that provision to include a new strategic allocation at M54 J3. If this approach had been taken then it would fit squarely with the Council's own strategy of providing significant growth along the M54 / A5 corridor.
- 6.1.7. C.) It is known and would be known at the outset when the functional housing and economic relationship with the Black Country was acknowledged, that any provision for BCA needs would require release of land from the green belt. That is because the Plan was already proposing the same levels of housing and employment provision before accepting any BCA needs as it is now including the (notional) acceptance of 1,500 homes and 30ha of employment land. The Cabinet reports of July and December 2020 confirm that no additional land is to be allocated in order for the Plan to 'accept' the 1,500 homes and 30ha.
- 6.1.8. It is also obvious from reviewing a plan, that the area of closest relationship and specifically the M54 strategic corridor which includes both the principal highway and rail links, only extends within Shropshire for the distance between J2 and J4, and therefore meeting any needs within that Strategic Corridor will necessarily require green belt release.
- 6.1.9. D.) The known opportunities are explored in the M54 Strategic Growth Options Study. The M54 Study recommends that those opportunities including the BRE site at J3 are prioritised. The M54 Study stated that *"The site will provide opportunities for training, employment and skills development. The proposal provides opportunities and potential synergies with the future growth aspirations of RAF Cosford in terms of promoting employment growth linked to the increased focus of the base as the RAF's Centre for engineering and aeronautical training."**"The Study recognises the substantial economic benefits that would arise from the development coming forward and its potential to help deliver Shropshire's growth ambitions "*.
- 6.1.10. The M54 Study recommends that the Council clarify development options with the promoter and define the extent that the site could meet strategic housing and employment needs. (para 4.63)
- 6.1.11. The Strategic Sites Consultation states that *"Shropshire Council recognises that this proposal may represent a 'once in a generation opportunity to meet cross-boundary needs, through delivery of nationally significant employment opportunities, high quality housing and a local centre to provide services, facilities and infrastructure as part of a planned new settlement within an important strategic corridor"*.
- 6.1.12. E.) the matters of regard given to physical proximity, migration patterns, commuting patterns, travel to work areas and transport connections are discussed above.

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- 6.1.13. F.) The levels of forecast unmet housing need have been consistently around the 28,000 dwelling mark or above since first raised with the Council in July 2018. The updates and evolution of that need and levels of potential provision from other LPA are set out in the Council and ABCA new evidence summarised in Appendices 2 and 3. That is a very substantial need and as yet there are no fixed sources of contribution towards meeting it. In that context the acceptance by the Council of just 1,500 homes is arbitrary and disproportionately small. It is substantially less than Shropshire could sustainably accommodate and the Plan evidence all indicates that the Council should be embracing this opportunity to harness growth in precisely the location in the strategic corridor link with the BCA that aligns with all relevant objectives.
- 6.1.14. G.) The position on the potential contribution from other LPA has been updated by ABCA periodically through the Plan evolution. Please refer to the chronology at appendix 4 and the review of new evidence at the start of this Matter Statement.
- 6.1.15. H.) The Council admits without naming Birmingham, that not all LPA that receive migrants from the BCA may be in a position to make a contribution. As noted in our response to Q4, that at a stroke is 44% of the BCA unmet need based upon the migration apportion methodology. Taking account of the LPA that are potentially offering some contribution "subject to plan" processes and apportionment to Birmingham needs, it is clear that on the Council's methodology, its provision for BCA needs should be very substantially greater than it proposes. Taking all of the above factors into account, there is nothing which indicates that Shropshire should not be providing more housing towards the BC shortfall. All of the criteria support the proposition that Shropshire accepting to provide for BCA needs is appropriate. The criteria all indicate that a greater proportion of the BCA need could and should be accommodated above the 1,500 homes accepted.

7. Q7. Are the Statements of Common Ground (SoCG) with neighbouring authorities and stakeholders still relevant and up to date?

- 7.1.1. Shropshire Council did not produce a statement of common ground in relation to cross boundary needs arising from the Black Country until July 2021 when a SOCG with ABCA was produced in the days shortly before Shropshire Cabinet approval to submission of the Plan. That was three years after the need for cooperation was identified and after Shropshire had concluded its position in relation to determining what it was prepared to 'accept' in relation to BCA needs. The SOCG therefore played no part in the position that has been reached.
- 7.1.2. The public has had no insight to the process of co-operation at any point during which it is alleged to have taken place. Even with that SOCG there is no evidence of any meaningful cooperation in accordance with the Duty having taken place. The lack of a SOCG during the plan production process contravenes NPPF p27 and PPG Paragraph: 009 Reference ID: 61-009-20190315.
- 7.1.3. Throughout the production of the Shropshire Plan from July 2018 to submission in September 2021, there was no clear identification of the strategic issues about which Shropshire considered it should engage with under the duty to cooperate, or the process by which that engagement would be carried out. Throughout the Plan making process, none of the matters a – h at PPG Paragraph: 011 Reference ID: 61-011-20190315 has been published. There is no evidence what co-operation was intending to do (b), no clarity of which bodies co-operation should be with (c), no evidence of governance of the any co-operation (d). There was no evidence during the plan production and still none in the SOCG of the matters required to be documented in a SOCG set out at PPG Paragraph: 015 Reference ID: 61-015-20190315. For example, there was no agreement to undertake joint studies to investigate potential opportunities for development e.g. joint green belt review.
- 7.1.4. The production of a SOCG with a body which is not a body within the scope of the Duty, and which does not include Local Authorities which have raised specific objections to the strategic approach and the response to the Duty to cooperate, does not meet the requirements of PCPA s33A. It is irrelevant whether the Regulation 19 objections of Dudley are duly made or not, because they raise issues about how the Duty to cooperate has been conducted. As an ongoing duty, the highlighting of concerns with its operation is not confined to Plan consultation deadlines.
- 7.1.5. Producing the SOCG at the end of the plan making process does not meet the requirements of PPG Paragraph: 020 Reference ID: 61-020-20190315 which requires public statements by the time draft Plans are consulted upon.

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- 7.1.6. SOCG 9.1 and 9.2 record disagreement about the operation of a review mechanism to consider residual unmet need from the BCP in the future. Shropshire consider the regulation 5 year review is sufficient, ABCA want a specific review policy. Both alternative proposals ignore the requirements of PPG Paragraph: 022 Reference ID: 61-022-20190315 that strategic matters should be effectively addressed through joint working and not be deferred to subsequent plan updates. Equally the same paragraph directs against seeking Inspector direction on addressing issues of strategic requirements across boundary.
- 7.1.7. The considerations of Inspector Louise Crosby in her report to Tonbridge and Malling Borough Council (June 2021) raise a number of parallel issues which are applicable to Shropshire. In both cases housing needs of a neighbouring LPA are agreed to be a strategic matter. As such it is a matter of judgement for the examining Inspectors, taking account of the evidence presented by the Council and other participants, both in writing and at the hearing sessions, to judge whether the duty to cooperate has been complied with (Para 11). The parallel issues from Tonbridge and Malling Plan preparation to the Shropshire Plan preparation in summary include:
- A plan cannot be adopted if the duty to cooperate has not been demonstrated (para 4)
 - A likely unmet need of as little as 600 homes at the Regulation 18 stage is a strategic matter about which cooperation is required. (para 14)
 - Identification of land requirements expressed as “likely” taking account of provision that may be made from green belt release in the need generating LPA, do constitute evidence of a strategic matter requiring cooperation. (paras 16, 19, 20, 26, 27)
 - Knowledge of unmet needs should be taken into account regardless of whether specific requests have been made. The duty to cooperate is imposed on a LPA irrespective of a request from the LPA with the unmet need (paras 17 – 18, 24)
 - Acknowledgement by the LPA of the existence of likely unmet need amounts to knowledge that cooperation is required. (para 14, 18)
 - Regardless of whether the requested LPA considers it can make provision for another LPA needs, the requirement for cooperation, constructively, actively and on an ongoing basis remains. (para 21)
 - Evidence of discussions and actions need to be set out in minutes of meetings. A simple list of meetings is not sufficient evidence. (paras 23, 32, 34)
 - Delay to progression of that LPA’s plan is not sufficient reason to not cooperate (para 25)
 - The requirement is to seek to meet identified needs in full. (para 35)
 - Commitment to a future review of a plan once needs are clarified is not in the spirit of the Act or national policy. Deferral in this way is not constructive, active engagement. (para 33)
 - Failure to meet the Duty to Cooperate cannot be remedied after a plan’s submission, hence early review does not meet Duty to Cooperate requirements. (paras 9, 38)

8. Q8. What is the position of other authorities in the HMA and elsewhere in terms of the planned level of housing in Shropshire? Have specific concerns been raised through duty to cooperate discussions or representations which still are unresolved?

- 8.1.1. Since the ABCA representations to the Preferred Sites consultation in February 2019, it has been clear as stated in the representations, that ABCA sought a stronger relationship and mutual growth between the Black Country and Shropshire. ABCA supported the allocation of a strategic site in the M54 corridor to provide housing for BCP needs, and that strategic site should be located in the M54 corridor around J2 or 3 where it can benefit economic growth and the linkages between Shropshire and the Black Country.
- 8.1.2. The ABCA representations to the Strategic Sites Consultation in September 2019 stated that ABCA endorse the Council's recognition of the BRE site at J3 as "representing a once in a generation once in a generation' opportunity to meet cross boundary needs, through delivery of nationally significant employment opportunities, high quality housing and a local centre to provide services, facilities and infrastructure as part of a planned new settlement within an important strategic corridor". The representations provided information in response to the matters about which the consultation document stated further information was required. ABCA stated that "the M54 junction 3 site has the potential to deliver a strategically significant 'game changing' housing and economic development opportunity to the mutual benefit of Shropshire and the Black Country".
- 8.1.3. The Regulation 19 objections of ABCA, Walsall and Dudley remain unresolved. All three letters of representation highlight that there has been no dialogue in the period from August 2020 (Regulation 18 pre-submission draft to the date of their Regulation 19 representation February 2021) between the Council and BCA. There has therefore been no co-operation during that crucial period of the Plan on the matter of how much housing need should be accepted, or how that accepted housing need should be accommodated to meet BCA growth needs. Dudley's representations are treated by the Council as not having been duly made. However, the Dudley representations (like Walsall) raise matters of objection relating to the response to duty to cooperate requirements and as on ongoing duty, the Council cannot simply ignore that objection because it was submitted a few days past the consultation deadline.

9. Q9. In overall terms, has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Local Plan? What has been the outcome of co-operation and how has this addressed the issue of housing provision?

9.1. Duty to Cooperate Failure

- 9.1.1. The only evidence of purported cooperation published by the Council has been the Statement of Common Ground with ABCA (SOCG) produced at the point the Plan was submitted for examination. The timing of that publication conflicts with guidance which requires the SOCG to be produced and maintained throughout the plan making process .
- 9.1.2. As a minimum, a statement needs to be published when the area it covers and the governance arrangements for the cooperation process have been defined, and substantive matters to be addressed are determined. If all the information required is not available (such as details of agreements on strategic matters) authorities can use the statements to identify the outstanding matters which need to be addressed, the process for reaching agreements on these and (if possible) indicate when the statement is likely to be updated. Authorities should have made a statement of common ground available on their website by the time they publish their draft plan, in order to provide communities and other stakeholders with a transparent picture of how they have collaborated .
- 9.1.3. The content of the SOCG establishes that there is insufficient evidence of co-operation which is purported to have taken place. The evidence published with the Black Country Plan (BCP) consultation demonstrates that co-operation has not been ongoing or effective. Dialogue between the Council and BCA has been primarily through formal consultation and representations. Dialogue outside of representations ceased at the Shropshire Plan Regulation 18 stage. Accordingly there are legal compliance failures.
- 9.1.4. The first issue for the duty to cooperate, is the process by which it considered the quantitative amount of housing and employment land for BCA needs which the Plan would accommodate. A separate issue is then to consider where and what form to make that provision to ensure that the needs are met. Both issues should have involved the consideration of alternatives and a transparent process of assessment. There is no evidence of the decision-making process for determining the quantitative amount of land that the Plan will provide to meet the ABCA need. Similarly, there is no evidence of the decision making process by which it was determined that the need would be adequately provided for through no specific allocation and distribution spread in accordance with the strategic approach designed to meet Shropshire's needs.

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- 9.1.5. The Plan purports to make provision for 1,500 homes and 30ha of employment land towards Black Country needs. However, the quantitative targets have not been increased for either housing or employment above the levels that the Council proposed for Shropshire's own needs. There is therefore no provision of any amount of land for BCA needs and no provision of any land in a location or of a quality to meet BCA needs. This is a failure of the process of the duty to cooperate and a failure of the soundness of the Plan. There is no evidence of consideration of making provision beyond the headroom provided for in the plan, which goes against the principles set out in NPPF paragraph 11.
- 9.1.6. There is no evidence of the Council considering, as it should in accordance with s33A and NPPF 11b, meeting all of the identified BCA need or a greater proportion of it. Neither is there any evidence of the Council seeking to work with other LPA that may have a role in seeking to meet the BCA needs. There is no process which the Council set out to follow or by which to engage, in order to determine the level of provision that it would be appropriate for the Plan to make for BCA needs.
- 9.1.7. The Council states in many places in its Plan and evidence that it is taking forward the recommendations of the Shropshire Economic Growth Strategy (SEGS). The priorities of SEGS include working closely with West Midlands Combined Authority (WMCA) to focus on mutual priority actions including specifically the Land Commission. The principal recommendations of the Land Commission included a strategic green belt review and identification of strategic sites likely to be within the green belt for allocation. The Council has not engaged in a green belt review alongside any other WMCA member. Although the Land Commission called for opportunities to be found for strategic sites and ABCA, Walsall and Dudley have all made formal representations requesting allocation of a strategic site at J3 to meet a larger proportion of the BCA needs, no strategic allocation has been made. Although the Council consulted upon the opportunities within the M54 Strategic Corridor through the Strategic Sites Consultation (SSC) in July 2019, that preceded the decision by the Council to accept any amount of housing or employment need for BCA. As such that consultation is not itself evidence of consideration of how the BCA need should be provided for.
- 9.1.8. The Council does however appear to have been expecting to make some cross boundary provision for BCA needs when it undertook the SSC because the SSC draft states that the J3 proposal "may represent a 'once in a generation' opportunity to meet cross-boundary needs, through delivery of nationally significant employment opportunities, high quality housing and a local centre to provide services, facilities and infrastructure as part of a planned new settlement within an important strategic corridor".
- 9.1.9. Despite the acknowledgment of the once in a generation opportunity provided by a strategic allocation at J3, there has been no assessment of the socio or economic benefits of seeking to meet a larger proportion or all of the outstanding unmet need for BCA. Such a proposal would appear to measure up very well alongside the strategic priorities for the Plan as set out by the evidence base, which include: providing for a step change in economic growth, attracting inward investment, reducing outflow commuting, increasing inflow migration of younger and skilled workers, providing sufficient homes where people want to live, making use of the high quality environmental assets of the county, increasing links with the WMCA including the BCA, and leveraging infrastructure investment. The Plan evidence base and the SOCG provide no evidence that these benefits have been considered in any way in the context of deciding what amount of BCA need to accept. All would appear to be able to benefit from increased provision for BCA needs.

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- 9.1.10. Following the SSC the decision was made to reject the strategic site opportunity at J3 around the same time as the decision was made about how many homes to accept for BCA needs. Both matters were covered in the report to the 20th July 2020 Cabinet meeting. That meeting made the decision to accept 1,500 homes, and it was reported that there were insufficient exceptional circumstances to justify release of J3 from the green belt. These are two separate issues. Firstly, there is no explanation of why 1,500 was decided as the correct amount of BCA need to accept, and there is no indication of any assessment of an alternative amount. As a separate matter the Council should then have considered whether J3 had any role to play in meeting the need and should have done so in consultation with BCA as part of the duty to cooperate.
- 9.1.11. The decision to reject J3 precedes the Council's acceptance of employment need which was decided at the 7th December 2020 Cabinet. The same two issues arise again. There is no evidence of consideration by the Council to accommodating all of the employment need or more than 30ha. There is equally no evidence of any consideration being given after the 7th December to whether in light of the housing and employment needs of BCA the exceptional circumstances justification for J3 should be viewed any differently. That process should have involved BCA through the duty to cooperate.

9.2. Legal Compliance

- 9.2.1. The failures in the duty to cooperate process are reflected in the Sustainability Appraisal (SA) which contains no assessment of the benefits of allocating a strategic site for employment and housing needs in the M54 corridor to be compared with an assessment of not doing so and instead relying upon a strategy as proposed by the Plan and SP2. Accordingly, there is a failure in the legal compliance of the SA which fails to assess the likely effects of reasonable alternatives to the strategy proposed.
- 9.2.2. The economic and employment evidence base identifies a need for a step change in Shropshire's economic productivity. The SEGS calls for a bold, ambitious and forward thinking strategy to identify and prioritise sites in the strategic corridors. The M54 / A5 corridor is identified as a key corridor for such growth and the only location with close proximity to the West Midlands and the growth objectives of the Land Commission and the WMCA. The Plan fails to follow a strategy of step change, and instead follows a strategy of maintaining the status quo of employment and housing development locations and the scale and types of sites proposed to be allocated. The Plan strategy fails to respond to the evidence which exacerbates the failure to respond to BCA needs. The SEGS recommendations and allocation of land for BCA needs are complementary and mutually beneficial. Both have been disregarded. Accordingly the Plan is not positively prepared, is not justified, is not effective and is not consistent with national policy.

9.3. Outcome

- 9.3.1. The Pre-Submission Plan which includes the 1,500 dwellings for BCA needs, makes provision for 30,800 new dwellings which is a marginally lower level of growth than proposed in the Preferred Scale and Distribution of Growth consultation of 2018 (pre acceptance of provision for BCA) and is broadly in line with past rates of growth seen in the County at around 1,400 dpa.

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- 9.3.2. The 30,800 provision is stated to cover the need of 25,894 and an additional uplift to respond to the 'high growth' strategy. It will also "support the opportunity for the Council to respond positively to appreciate cross boundary needs". The strategic approach is explained in the Cabinet Report of 20th July 2020. The report states: "**The approach to distribution of development reflects the Council's previously stated preferred option, favouring an 'urban focussed' approach. It is considered that by virtue of the infrastructure and services Shropshire's largest settlements generally provide, there is a greater opportunity to deliver larger scale mixed use schemes, in doing so providing better conditions to support additional employment delivery and providing a better balance of growth**"²⁹. There is no consideration to strategic corridors included in that explanation which highlights that urban focus has been the driver of spatial strategy to the exclusion of other considerations.
- 9.3.3. The Shropshire Cabinet report of 20th July 2020 (Appendix 7) states that the proposed provision of 30,800 dwellings incorporates 1,500 dwellings to support the needs of the BCP, and provides an opportunity for Shropshire to accommodate this need as part of its overall housing requirement³⁰. The response of the Shropshire Plan was not to increase the 30,800 already identified, by an additional 1,500 dwellings. Shropshire has simply identified part of the additional provision above its own needs based upon standard methodology which it was already proposing, as being for BCP needs. As such no provision in quantitative terms is being made in response to BCA needs. The 1,500 homes were planned to be provided for in any event, as the Council is pursuing a strategy of balanced growth. The Council's locally devised methodology (pre-dating the standard method) is set out in the HTP at 2.19 – 2.53.
- 9.3.4. The methodology identified an annual housing delivery target that was below past rates of completions at 1,259, whilst HTP 2.35 states that the required level of provision (to maintain previous rates of delivery) is around 1,430. If the needs of the BCA were genuinely being provided for, the annual and total targets would have been increased by an amount corresponding to the amount of BCA need accepted over and above the annual target of around 1,400.
- 9.3.5. The distinction between making additional provision in response to the BCP need and simply re-assigning part of the proposed supply already planned is critical when it comes to understanding where that cross boundary provision is made, what relationship it will have with the Black Country, what ability there is to assess whether those 1,500 dwellings are delivered, and how the notional identification of 1,500 dwellings distributed in accordance with the urban first strategy meets the needs of the Black Country. The 20th July 2020 Cabinet report states that the then current need for Shropshire is 25,894 homes over the period 2016-2028. However the Regulation 18 Pre-submission plan SPS2 proposes 30,800 homes which is a marginally lower growth level than that proposed in the Preferred Scale and Distribution of Development (PSDD) and broadly in line with past rates of growth. The report states that the uplift (4,906) "is to respond positively to the overall high growth strategy"³¹.

²⁹ Shropshire Cabinet Report 20th July 2020 para 5.6

³⁰ Ibid para 5.9

³¹ Shropshire Cabinet Report 20 July 2020 paras 5.4 and 5.5.

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- 9.3.6. Being part of Shropshire's need before acceptance of any BCA need, we regard the 4,906 top slice in the overall 30,800 to be for Shropshire and not BCA needs. As such the acceptance of 1,500 is incorrect as no additional quantitative provision is being made. If that 4,906 does not represent need for Shropshire, then by the same measure all of it must be available to count towards BCA needs. However if that interpretation is applied, it remains our case that there needs to be a reconsideration of the strategic approach, so that the quantum of provision for BCA is allocated specifically and in locations and configurations which are able to meet the qualitative needs of the BCA. Scattered distribution across the County does not meet the need.
- 9.3.7. The 7th December 2020 Cabinet report (Appendix 8) reminds Cabinet at para 1.4 that the housing strategy is intended to support economic growth and to deliver more affordable and lower cost housing. However, by following the urban first strategy for the notional cross boundary provision, Shropshire has ignored the objective of its high growth strategy and SEGS to bring about a step change in strengthening links with the WMCA area, and to seek inward investment (please refer to our response to Q11).
- 9.3.8. SEGS seeks housing of the right type quality and cost to meet the needs of the population, and ensure that Shropshire remains an attractive place to live which is part of the growth strategy. SEGS states: "we must support a broad distribution and allocation of strategic sites"³².
- 9.3.9. EDNA para 2.19 notes the acknowledgement of the NPPF of the implicit link between economic growth and housing need and that the two should not be decoupled. Strategic employment is noted to be supported by the M54 Growth Study (EDNA 2.54). It follows that housing should be provided alongside or close to such strategic provision.
- 9.3.10. EDNA section 4 sets out to assess whether the Shropshire FEMA is self-contained in the same manner as the Shropshire HMA. It concludes that it is, but also states: "Notwithstanding our conclusions on the extent of the FEMA, from a practical perspective, the interrelationship between Shropshire, Telford and the Black Country authority areas in terms of economic functionality suggests that close co-operation on the employment land supply balance is recommended going forward." (para 4.56).
- 9.3.11. The EDNA final conclusion is: "To ensure a flexible and responsive policy framework for Shropshire, it will be necessary to not just concentrate on meeting the forecast quantitative requirements for office and industrial space in the area, which will fluctuate over time, but also to reflect on the opportunities and risks that flow from particular policy approaches. This could include how the delivery of employment land can be prioritised in particular areas and for particular uses, or how scope can be created to deliver inward investment opportunities for Shropshire, in particular by attracting and, capitalising on, the growth opportunities provided by the M54 Corridor, generated by positive strategic planning policies and promotional activities targeting potential inward investors". EDNA therefore recognises that the relationships in the M54 corridor and the attraction of that corridor to the market are important considerations beyond the purely quantitative measures. It follows that housing also needs to reflect the qualitative considerations important to the growth of the economy.

³² Shropshire Economic Growth Strategy 2017 page 21

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9.3.12. The proposed solution of a plan review to address the agreed shortfall³³ and residual shortfall for the BCP³⁴ is not an acceptable solution. A plan review, whether as a matter of course dictated by the regulation 5 year review, or extraordinary plan review by policy trigger, contravenes Government guidance that addressing strategic matters should not be deferred to plan updates³⁵. The requirement of NPPF para 11b is that strategic policies should as a minimum, provide for objectively assessed needs for housing and other uses as well as any needs that cannot be met within neighbouring areas. The requirement is not to provide for an arbitrary part of that need and to defer the remainder to a plan review. This point is explained in further in the opinion of Matthew Reed QC at Appendix 1

³³ Statement of Common Ground Shropshire with ABCA July 2021 para 8.2

³⁴ *ibid* 8.12

³⁵ Planning Practice Guidance Paragraph: 022 Reference ID: 61-022-20190315 revision date 15/03/2019

10. Q11. What are the relevant inter-relationships with other authorities in terms of economic activity, travel to work and the market for employment land and premises?

- 10.1.1. EDNA assesses that 34,939 residents commute out of Shropshire to work, whilst 29,274 workers commute into Shropshire. The top 5 destinations for out commuting are Telford, Wolverhampton, Wrexham, Powys and Birmingham. The top 5 origins of commuters into Shropshire are Telford, Powys, Wrexham, Herefordshire and Wolverhampton. Having assessed a range of factors to define the FEMA, EDNA concludes that the FEMA is predominantly self-contained but has strong labour market linkage with the BCA.
- 10.1.2. ONS data from the 2011 census identifies 4,615 commuters travelling from Shropshire to work in the Black Country. That equates to just under 6% of all commuting into the Black Country. The report Building an Economic Vision for Shropshire (IPPR North) November 2016 which informed the early stages of the Plan drafts, identifies 3% of all those working in Shropshire reside in Wolverhampton and Dudley. That equates to a tenth of all in commuting to Shropshire.
- 10.1.3. The Marches LEP Strategic Economic Plan 2019 (Marches SEP) states that the LEP area (covering Shropshire, Telford and Herefordshire) has close economic ties with West Midlands, North West, South West and Wales. Good transport links to Birmingham and other cities are identified as reasons for business locations in the Marches. The manufacturing strengths of the east of the Marches around Telford and Bridgenorth is closely linked to the automotive supply chains of the West Midlands. 42% of workers commuting out from the Marches work in Birmingham, whilst Wolverhampton is a source of workers commuting into the Marches.
- 10.1.4. The Marches SEP states that there are “strong relationships with our neighbours in the West Midlands (and the North West, South West and Wales) and that building on these strategic economic links and developing our relationships is key to delivering this strategy, boosting productivity and generating economic growth³⁶”.
- 10.1.5. The Council acknowledged in its first response to ABCA’s request for assistance in July 2018, that Shropshire has a functional economic relationship with the Black Country, and consequently, that there is merit in Shropshire meeting some BCP needs in east Shropshire³⁷. The Shropshire email states that it was the context of that functional economic relationship between Shropshire and the Black Country which led to the Strategic Options Study for the M54 corridor to examine the strategic economic context and potential opportunities for economic growth. The email states that the Council would welcome discussions about accommodating needs particularly in the M54 corridor, where growth would be consistent with the SEGS. The redacted email published on the BCP web site forms Appendix 9.

³⁶ Ibid para 5.1

³⁷ Shropshire email to ABCA (undated) – response to ABCA 12 July 2018 letter – BCP DTC evidence. Para 4

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- 10.1.6. The EDNA makes reference to The Shropshire Skills Evidence Base, which identified that Shropshire has more resident workers than jobs, and so has net out migration for employment, however in commuting rose more rapidly than out commuting in the decade to 2011. Out commuting is greatest for the highest earners. There is a marked differential between resident and workplace earnings within Shropshire³⁸. The same evidence identified that 15% of all Shropshire businesses have a skills gap.
- 10.1.7. EDNA also referenced the ELR, highlighting employment land opportunities as being strategic (within key nodes on strategic corridors including the M54), significant local and other local. Other findings of the ELR highlighted, include that Shropshire should drive forward ambitious growth plans and deliver a balance of strategic and local sites including safeguarding locations within the green belt³⁹.
- 10.1.8. Reporting on the M54 Growth Corridor Strategic Options Study, EDNA highlights that the M54 is a strategic corridor for both employment and housing. EDNA highlights that the M54 Study concludes that the M54 corridor is extremely well placed to deliver growth within the key sectors identified in the SEGS, and that some or all of the five sites assessed be released for development⁴⁰.
- 10.1.9. Specific business links between the Marches and West Midlands include supply chain, particularly in the automotive sector, and cyber security with the University of Wolverhampton⁴¹. The Marches is a member of the Midlands Engine economic partnership, and Midlands Connect passenger transport partnership, linking the strategic economic and transport decisions with the wider Midlands economy. Shropshire is a non-constituent member of the WMCA. Four of the seven constituent members of the WMCA are the BCA. The SEP therefore promotes strong economic and transport linkages with Wolverhampton, the Black Country and the wider West Midlands. The M5 / A5 corridor is highlighted as a particularly important corridor for those economic relationships.
- 10.1.10. The SEGS identifies a commitment to work with the WMCA and to link with its SEP. The Council commits to working with WMCA on the key areas of collaboration set out in the SEP to accelerate economic growth, employment and productivity and focus on mutual priority actions including the West Midlands Land Commission and Growth Company. The SEGS strategy is to be bold ambitious and forward thinking to build upon the M54 / A5 strategic corridor reinforcing Shropshire's close proximity to the West Midlands and the growth potential that will develop from the West Midlands Land Commission⁴².

³⁸ Shropshire Economic Development Needs Assessment (December 2000) para 2.58

³⁹ Ibid para 2.60

⁴⁰ Ibid para 2.71 – 2.72

⁴¹ Ibid para 5.5

⁴² Shropshire Economic Growth Strategy 2017-2021 pages 2 - 9

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- 10.1.11. The Regulation 19 representations of BRE included a Need Assessment for a Strategic Employment Area at M54 J3 prepared by Savills (September 2020). That report draws upon Savills leading occupier agency, development, economics, and research expertise, to identify a market area for industrial and distribution property which Black Country occupiers would consider. The Market report has been updated to ensure evidence is current. The updated report (May 2022) is attached at Appendix 10. The plan at Figure 5.1 of that Market Need Update report illustrates the market area that is covered by the BRE site at J3. It includes all of the BCA area, Shrewsbury and Telford. The Savills Market Update Report (Appendix 10) explains at 5.2.7 and 5.2.8 that locations at the western end of the M54 corridor, and locations without good access to the motorway network will not be attractive to occupiers and will not serve the BCA market needs.
- 10.1.12. The SEP, SEGS, EDNA, and M54 Growth Study all identify the M54 corridor as the prime opportunity to deliver economic growth to strengthen the relationship with the West Midlands and to attract and retain a skilled workforce. The Savills Market Need Update report identifies significant socio-economic benefits (see section 8 and p46 particularly at Appendix 10) which would be achieved through allocation of a strategic site at J3. Those benefits would deliver the objectives of the evidence base.

11. Q13. What is the justification for the allocation of 30ha of employment land to meet some of the unmet need from the Black Country?

- 11.1.1. The Plan has retained a target of 300ha since the Preferred Scale and Distribution of Development Draft in 2017 (PSDD) the basis for which was explained with reference to the housing target and job creation requirements in section 3 of the PSDD. The Plan period at the time of the PSDD was 20 years so that equated to 15ha per annum. Now the Plan period is 22 years, so the same target equates to 13.6ha per annum. No provision was planned for BCA needs at the time of the PSDD in 2017. Since the inclusion of 30ha of employment land for BCA (December 2020), the annual amount of employment land being planned for by the Plan has actually decreased. Please refer also to Matter 2 Q14.
- 11.1.2. The EDNA Final Report (April 2021) sets out an assessment of need. We note this report post-dates the Regulation 19 Plan and cannot therefore have informed the employment land target of the Regulation 19 Plan. The EDNA concludes that between 2016 and 2038 the employment land need ranges from 128ha – 234ha. The lower end reflects population projections, the upper end past take up rates⁴³. The EDNA then builds in the 30ha allowance for BCA⁴⁴., which still derives a need lower than the 300ha of SP2.
- 11.1.3. Having been written after the Council agreed to accept 30ha of BCA need, the EDNA clearly has not informed the decision over what quantum of employment land need the Plan should accept. The SOCG, AMR provide no information as there is no evidence of what was considered through the duty to cooperate. The only evidence available to explaining the decision is the Cabinet report of December 2020. The only thing that this report reveals about the decision on the quantum of 30ha, is that the Council considers 30ha “reasonable and appropriate”⁴⁵. There is no further justification for the notional allocation of 30ha for BCA needs.
- 11.1.4. The Cabinet report of 7th December 2020 sets out a similar proposal in relation to the 30ha of employment land as the July 2020 report did for housing. The recommendation is to accept up to 30ha of BCP need to be distributed in accordance with the strategy already defined by SP2. The report confirms that the Pre-Submission Plan (which includes both the 1,500 dwellings and 30ha employment land) makes no change to the overall levels of housing or employment over the plan period, and no change to the distribution of growth⁴⁶.(see Appendix 8)
- 11.1.5. The report states that the planned provision of 300ha of employment land is beyond the baseline need and is a deliberate response to the desire to see a ‘step change’ in economic growth as recommended by the Economic Growth Strategy (SEGS)⁴⁷.

⁴³ Shropshire Economic Development Needs Assessment: Final Report April 2021 para 9.9

⁴⁴ *ibid* para 9.27 – 9.29

⁴⁵ Shropshire Cabinet report 7th December 2020 para 5.25

⁴⁶ Shropshire Cabinet report 7th December 2020 para 5.6

⁴⁷ *Ibid* para 5.24

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- 11.1.6. The report explains that 30ha for BCP can be accommodated within that planned provision as for housing, and will not require the identification of additional land⁴⁸.

⁴⁸ Ibid para 5.25

12. Q14. In overall terms, has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Local Plan? What has been the outcome of co-operation and how has this addressed the issue of jobs growth and employment land provision?

- 12.1.1. The Council's response in July 2018 to the initial request from ABCA acknowledged the functional economic relationship with the Black Country and the primacy of the M54 corridor as the best location to accommodate the BCP need. It was the context of that functional economic relationship between Shropshire and the Black Country which led to the Strategic Options Study for the M54 corridor to examine the strategic economic context and potential opportunities for economic growth⁴⁹.
- 12.1.2. In that July 2018 response the Council stated that any provision to meet BCP need would have to be consistent with the SEGS objectives. The position that has been reached is completely at odds with the SEGS and with the SEP, EDNA and M54 Growth Options Study. The objectives of step change, bold forward looking approach, maximising economic growth, building on links with WMCA, and achieving mutually beneficial growth have all been ignored.
- 12.1.3. The Council's assessment of why it would accept 30ha of employment land need for BCA is set out in the 7th December 2020 Cabinet report. It follows precisely the same line of logic as for the acceptance of 1,500 homes in the July 2020 Cabinet report as set out in our response to Q9. For employment the December Cabinet report states that the proposed "provision of 300ha over the plan period is beyond the 'baseline' need scenario when looking at forecasted growth. This position is deliberate and responds to the Council's desire to see a 'step change' in economic growth in the County over the Plan period, a position advanced by the Economic Growth Strategy"⁵⁰.
- 12.1.4. The strategic approach of distributing employment land in accordance with the urban first approach, by definition, affords no opportunity for strategic growth to take place in the M54 corridor where there are no urban locations of a size or location suitable to accommodate such growth. If the economic growth objectives are to be pursued, then that requires a different strategic approach, at least in so far as targeting some of Shropshire's employment development to strategic opportunities in the M54 corridor at locations which are attractive to the market and able to attract inward investment.

⁴⁹ Shropshire response to 12th July 2018 ABCA letter

⁵⁰ Shropshire Cabinet Report 7th December 2020 para 5.24

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12.1.5. The December Cabinet report states that the Council has further developed its consideration of economic needs since July 2020 (Reg 18 pre-submission draft) and an Economic Development Needs Assessment (EDNA) will be published alongside the Regulation 19 consultation. The final EDNA was published in April 2021. The EDNA identifies a need for between 128ha – 234ha of employment land. The EDNA advises that:

“The selection of the final employment land requirement will depend upon the preferred level of employment growth for Shropshire and the extent to which Officers consider that this aligns with the Council’s growth aspirations, including the need to reduce net out commuting and balancing economic considerations with housing needs. The level of employment growth will be based upon the identification of policy aspirations relating to the promotion of key sectors in accordance with the economic and spatial vision for the area.”

“Furthermore, given the scale and urgency of the Big Box logistics e-commerce issue nationwide, if the opportunity arises the Council may wish to give consideration to participating in a further strategic study to quantify the likely extent of strategic B8 logistics need across the wider sub-region including Telford and the ABCA’s. This future study should seek to quantify the exact scale of large-scale strategic B8 in the wider area and identify specific sites where this need should be allocated.”⁵¹

12.1.6. Including the 30ha contribution the EDNA concludes that the Plan provision of 300ha is oversupply of 12ha – 118ha⁵². As for the BCA housing need, there is no actual provision of an amount of land or allocation of any particular site or location of land to meet the accepted 30ha need. It is therefore another accounting exercise within the growth headroom that the Council was already planning for. As for the housing (see Q9 10.1.7 – 10.1.8) if the headroom is for Shropshire Growth it cannot be available to BCA. If we are wrong in that, and the headroom is available to BCA, then the Plan could make provision for up to 148ha (118 +30) of BCA need without identifying any additional target. Any provision which is genuinely for BCA need should however be reflected in specific site allocations of land to meet that need, at locations and in configurations which meet the need. The evidence rehearsed throughout this Matter Statement indicates that such provision should be within a strategic site within the M54 strategic corridor between J2 and J4.

12.1.7. Notwithstanding the above assessment, even if all the growth headroom is considered available to BCA needs, it does not take away the need for the Council and the plan process to consider accommodating all or a greater proportion of the BCA need. The failure to consider any alternative to 30ha and the failure to consider alternative ways in which that provision can be made are failures of the duty to cooperate process and failures of the SA.

⁵¹ Economic Development Needs Assessment April 2021 paras 10.14 , 10.15

⁵² Ibid para10.19

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- 12.1.8. Providing for the BCP need should be entirely consistent with achieving the objectives of the SEGS, SEP and EDNA. Provision for the BCP needs to be in a location which is accessible to BCA resident workforce, and it needs to be located where it is accessible to and attractive to business with relationships with other business in the BCA area. The area of search to achieve this is very limited. The SEP and SEGS identify the constraints of the lack of dual carriageways, limited rail and limited transport infrastructure corridors within Shropshire. The M54 / A5 corridor is the only strategic corridor which links Shropshire and the Black Country. That is why the SEGS, SEP, EDNA and Growth Options Study all identify it as the prime location and target for economic growth with once in a generation opportunities acknowledged by the Council. The M54 corridor is defined in the M54 Growth Options Study. It is a small area covering the M54 from junctions 2 to 4. To the east lies South Staffordshire and to the west Telford. A development opportunity within this zone which captures both the M54 and the A5 corridors would have the greatest potential to benefit from the existing linkages. If the BCP needs were to be provided for in the M54 corridor, it would have mutual benefits for Shropshire and the Black Country and in so doing would comply with the SEGS, SEP and EDNA.
- 12.1.9. The duty to cooperate process (and SA see response to Matter 1) have not adequately considered the benefits that would derive from accommodating Black Country needs within the M54 corridor. Instead the Council has shied away from pursuing the objectives which the evidence base recommend. The Council has attempted to appear as making provision for some BCP need, but has in fact made no provision at all. SP2 plans for around 300ha of employment for a 22 year period (13.6ha pa). The Preferred Scale and Distribution of Development consultation draft of October 2017 (PSDD) before any acceptance of BCA need, proposed a Preferred Development Strategy (PDS) of 300ha of employment land for a 20 year plan period (15ha pa). The PDS stated that with 223ha of existing supply there is a net requirement for around 80ha of new employment land, "*although that should be treated as a minimum and additional land over and above this minimum is likely to be needed*"⁵³. The PSDD sets out an explanation for the 300ha target at section 3.
- 12.1.10. Assigning part of the headroom in the provision the Plan was proposing to make in any event does not serve to meet the need when it does not allocate any land of the required size, location, quality, accessibility or amount. And with no land proposed to be allocated specifically for BCP needs there is no ability to monitor delivery and achievement of plan objectives.

⁵³ Preferred Scale and Distribution of Development October 2017 p3 and p14

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