

Part B (see Note 1 and Note 8 para 4.2)

Please use a separate Part B form for each representation you wish to make

Name or Organisation (see Note 8 para 4.1)

Barton Willmore

1. To which part of the BDP does this representation relate?

Page:	Paragraph:	Policy:
Policies Map:	Other document:	

If your representation does not relate to a specific part of the document, or it relates to a different document, for example the Sustainability Appraisal, please make this clear in your response.

2. Do you consider the BDP is legally compliant? (see Note 2)

Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
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3. Please give details of why you consider the BDP is not legally compliant. Please be as precise as possible. If you wish to support the legal compliance of the BDP, please also use this box to set out your comments. (Continue on a separate sheet /expand box if necessary)

Please see accompanying letter for further details.

4. Please set out what change(s) you consider necessary to make the BDP legally compliant, having regard to the issue(s) you have identified above. You will need to say why this change will make the BDP legally compliant. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Continue on a separate sheet /expand box if necessary) (see Note 8 para 4.3)

Please see accompanying letter for further details.

5. Do you consider the BDP is sound? (see Note 3)

Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
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Do you consider the BDP is **unsound** because it is not:

(1) Justified (see Note 4)	<input checked="" type="checkbox"/>
(2) Effective (see Note 5)	<input checked="" type="checkbox"/>
(3) Consistent with national policy (see Note 6)	<input checked="" type="checkbox"/>
(4) Positively prepared (see Note 7)	<input checked="" type="checkbox"/>

6. Please give details of why you consider the BDP is unsound. Please be as precise as possible. If you wish to support the soundness of the BDP, please also use this box to set out your comments. (Continue on a separate sheet /expand box if necessary)

Please see accompanying letter for further details.

7. Please set out what change(s) you consider necessary to make the BDP sound, having regard to the test you have identified at 6 above. You will need to say why this change will make the BDP sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Continue on a separate sheet /expand box if necessary) (see Note 8 para 4.3)

Please see accompanying letter for further details.

Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change(s), as there will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.


After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

8. If your representation is seeking a change, do you consider it necessary to participate at the oral part of the examination? **Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

No, I do not wish to participate at the oral examination	<input type="checkbox"/>
Yes, I wish to participate at the oral examination	<input checked="" type="checkbox"/>

9. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary. (Continue on a separate sheet /expand box if necessary)

If the Local Plan progresses to Examination in its current form, it will be important to highlight the points addressed in this representation, namely, that the Plan is not legally compliant and is unsound.

Signature: 

Date: 11 | 11 | 13

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BY POST AND EMAIL

20472/A3/GF/sw

11th November 2013

Dear Sir or Madam,

**BROMSGROVE DISTRICT PLAN PROPOSED SUBMISSION VERSION
RESPONSE BY THE CHURCH COMMISSIONERS FOR ENGLAND**

We are instructed by the Church Commissioners for England ('the Commissioners') to submit representations to the Bromsgrove District Plan Proposed Submission Version (BDP). We welcome the opportunity to submit comments on the content of the Plan and the Council's proposed strategy for guiding development in the District up to 2030. We have previously submitted details of the Commissioners' site in Druids Heath to the Bromsgrove Strategic Housing Land Availability Assessment (SHLAA). The site has been included in the SHLAA as part of the wider Kingswood Grange site (ref: BDC229), which is assessed as being suitable to accommodate 812 dwellings towards Birmingham City Council's housing need.

Our main focus within these representations is on the intention to postpone a review of the Bromsgrove Green Belt, and proceed with the progression of the Plan without an understanding of requirements to absorb some of Birmingham City Council's housing requirements. Our detailed comments are set out below, in line with the questions on the Representation Form.

3. Please give details of why you consider the BPD is not legally compliant

In order to be considered legally compliant, a Plan must meet a number of criteria, including:

- Meeting the legal requirements of the Duty to Cooperate (Section 33A of the 2004 Planning and Compulsory Purchase Act); and
- Having regard to the National Planning Policy Framework (NPPF).

When measured against these two criteria, it is considered that the BDP is not legally compliant.

The NPPF states that Local Planning Authorities (LPAs) should work with other bodies to ensure that '*strategic priorities*' are coordinated across boundaries. This should enable LPAs to work together to meet development requirements which cannot be met within their own area (Paragraph 179). The NPPF expects LPAs to demonstrate evidence of this cooperation when Local Plans are submitted for examination.

Housing need is considered to be a strategic priority in Paragraph 156 of the NPPF, which should be



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addressed through the Local Plan. As such, LPAs will be expected to cooperate with neighbouring authorities on the issue of housing requirements and assist them in meeting their needs which cannot be met within their own area. Whilst it is evident through the Local Development Framework Evidence Base and allocated land within the BDP that cooperation has taken place between Bromsgrove District Council (BDC) and Redditch Borough Council, there is limited evidence to suggest that an adequate level of cooperation has taken place between BDC and Birmingham City Council (BCC) to address their housing requirements.

It has long been apparent that BCC are unable to meet the City's housing requirements within their administrative area. Even with the release of a large area of Birmingham's Green Belt, they will still require land for an additional 30,000 dwellings, as first detailed in the Birmingham Development Plan Options Consultation (October 2012). During a BCC Cabinet Meeting on 21st October 2013, it was again acknowledged that BCC would require assistance from neighbouring authorities under the Duty to Cooperate to enable them to meet their target for housing. Particular reference was made during this meeting to BDC absorbing some of this requirement.

Although Paragraph 1.14 of the BDP makes reference to the fact that the District 'may' be required to absorb some of BCC's housing requirement, it proposes to address this issue at a later date (prior to 2023) through a review of BDC's Green Belt land (Paragraph 8.25). Whilst this demonstrates that discussions have taken place between BDC and BCC, the requirements of Birmingham have not been addressed through the BDP. This is not in accordance with the NPPF's requirement for cross boundary strategic priorities to be addressed through the Local Plan.

A number of LPAs have recently been found to be in breach of the Duty to Cooperate by an Inspector at Examination stage for undertaking a similar approach. Rushcliffe Borough Council submitted their Core Strategy for Examination in October 2012. In November 2012, the Inspector outlined some serious concerns about whether or not the Strategy met the required legal and soundness tests. Whilst Rushcliffe engaged with other Greater Nottingham Authorities during the preparation of their Plan, an adequate allowance was not made to assist in meeting the housing needs of Greater Nottingham. As such, the Inspector found that Rushcliffe had not complied with the requirements of the Duty to Cooperate. Rushcliffe are now undertaking additional work to try and address this before the Plan can progress to Examination.

It should also be noted that Coventry City Council formally withdrew their Local Plan from the Examination process in April 2013 after the Inspector found that the City Council had not complied with the Duty to Cooperate with neighbours constructively and was therefore not legally compliant. The Inspector confirmed that proposed housing numbers was a '*strategic priority*' and, as such, should be addressed through the Local Plan. As with the BDP, Coventry's Local Plan resolved to address any shortfall in neighbouring authorities housing requirements at a later date, should the need arise. The Inspector resolved that this was '*no more than an agreement to seek to agree in the future*' and therefore did not meet the requirements of the duty to cooperate, or the NPPF. The Inspector also confirmed that Sections 20(7B) and (7C) of the 2004 Act do not allow for the rectification of a failure to meet the requirements of Section 33A through main modifications to the Plan. Should this same approach continue to be pursued by BDC, there is a significant risk that the BDP will also not be found to be legally compliant at Examination due to non-compliance with the duty to cooperate and the NPPF.

4. What Changes do you consider necessary to make the BDP legally compliant?

In order to make the BDP legally compliant, it must fully meet the requirements of the Duty to Cooperate, and have better regard for the NPPF in addressing strategic priorities through the Plan.

To meet the requirements of the Duty to Cooperate, BDC need to afford sufficient consideration to helping BCC meet their housing requirements. This should be done through the preparation of the Plan, as opposed to at a later date.

Paragraph 159 of the NPPF requires LPAs to have a clear understanding of the housing needs in their area, through working with neighbouring authorities. Whilst the exact level of support that BCC

will require in meeting their housing needs is yet to be confirmed, clarity will be provided on this through the Greater Birmingham and Solihull Local Enterprise Partnership's Strategic Housing Needs Study, which is anticipated in to be signed off in early February 2014. Until this time, BDC cannot be said to have a clear understanding of the housing needs in their area. It is likely that this information will be available before the anticipated Pre-Examination Meeting in February 2014, and certainly by the anticipated Examination Hearing in April 2014 (Bromsgrove Local Development Scheme, July 2013). Therefore in order to avoid the Inspector being in a position to find the BDP not legally compliant at Examination, it is proposed that the submission of the BDP is deferred, pending the results of the Greater Birmingham and Solihull Local Enterprise Partnership's Strategic Housing Needs Study.

By deferring the submission of the BDP, detailed consideration may be given to the proportion of Birmingham's housing needs which will need to be absorbed by BDC. This will enable the proposed Green Belt Review (which is also required to enable Bromsgrove to meet its own housing requirements, as detailed below in part 6 of this letter) to be undertaken and incorporated into the Plan prior to submission. It will also allow the identification of sites, such as the site at Kingswood Grange, to absorb the required level of Birmingham's housing supply to be identified within the Plan. This will ensure that the BDP fully meets the requirements of the duty to cooperate and thus the NPPF, by addressing strategic cross boundary priorities.

If the submission of the Plan is not deferred to allow for incorporation of Birmingham's housing need through a Green Belt Review, BDC are at significant risk of allowing their Plan to be found not legally compliant because of '*an agreement to seek to agree in the future*', as was the recent case with Coventry City Council.

6. Please give details of why you consider the BDP is unsound.

Paragraph 182 of the NPPF outlines that Local Plans are required to be 'sound' and that an assessment of this should be based on the following criteria:

- Positively prepared – meeting objectively assessed development requirements, including those of neighbouring authorities;
- Justified – the most appropriate strategy when considered against the alternatives;
- Effective – deliverable and based on effective joint working; and
- Consistent with national policy.

It is considered that the BDP does not fully meet any of the requirements for a sound Plan.

Positively Prepared

One of the 'Key Challenges' identified in Paragraph 3.1 (3) of the BDP is identified as '*meeting the growth needs of the District to 2030 by ensuring adequate supply of appropriate housing and employment land*'. Following the completion of the 2012 Worcestershire Strategic Housing Market Assessment (SHMA), a housing target of 7,000 has been set for Bromsgrove for the period 2011-2030. However, despite this being identified as a 'key challenge', the BDP has only allocated enough housing land to meet requirements to 2023 (4,600 dwellings). It is proposed to identify land for the outstanding 2,400 dwellings required beyond this period, as well as any of BCC's unmet housing needs after the BDP is adopted, through a Green Belt Review, which will take place at some point in the future, before 2023. The BDP therefore does not meet its objectively assessed requirements, or those of neighbouring authorities.

Paragraph 8.23 of the BDP states that '*It is clearly essential that a full Green Belt review is undertaken following the adoption of the Plan*'. Given the identification of this 'essential' need, it is surprising that action has not been taken as part of the development of the Local Plan. Furthermore, no substantial justification has been provided to support the Council in taking this approach, other than urgency to adopt the Plan, and the fact that adequate housing land has been identified to 2023. However, the Plan period runs to 2030 and, given that securing an adequate supply of housing land is considered by BDC to be a 'key challenge' and that the Green Belt Review is

'essential' it would be more appropriate to address this need upfront within the Plan to ensure that the Plan is positively prepared by addressing development requirements now rather than at some point in the future.

The NPPF does not provide justification for delaying the release of development sites. Paragraph 15 of the NPPF states that development which is sustainable should be approved without delay. The provision of an additional 2,600 dwellings to allow BDC to meet its housing requirements is considered to constitute sustainable development by virtue that it is providing a supply of housing to meet identified needs. As such, it is irrelevant when this land is released and there is no justification for holding its identification back until 2023.

2 In taking the approach to defer the Green Belt Review and only meeting housing requirements to 2023, the BDP is not meeting its objectively assessed development requirements, including those of neighbouring authorities and therefore it is not deemed to have been 'positively prepared'.

Justified

The strategy of the Local Plan in not reviewing the Green Belt now so that it can meet Bromsgrove's housing requirements and those of BCC is not appropriate when considered against the alternatives. An alternative strategy would be to defer the submission of the BDP until such a time as the requirements of BCC are made clear, and a full Green Belt Review has been undertaken, as detailed above in part 4 of this letter. As discussed, this will allow the Plan to be legally compliant, and therefore represents the best strategy for the Plan. This will also ensure that it is 'justified' in the test of soundness.

Effective

As BDC do not have enough housing land to meet their requirements without reviewing their Green Belt boundaries, and this review has not been undertaken as part of the Local Plan, the Plan is not deliverable. As has already been demonstrated, the Duty to Cooperate with BCC has also not been fulfilled. As such, the Plan is not deliverable and based on effective joint working with other authorities. For these reasons, the BDP is not 'effective'.

Consistent with National Policy

For each of the reasons described above, the BDP is not consistent with the NPPF. In addition, Paragraph 47 of the NPPF required Plans to meet the full objectively assessed needs for market and affordable housing. A specific deliverable supply of sites should be identified for years 6-10 and where possible, years 11-15. The BDP does not meet its full needs for market and affordable housing. Rather, it only meets needs to 2023. It also does not identify specific sites for years 11-15. Whilst this is only required by the NPPF '*where possible*', it would be possible for BDC to meet this requirement if the Green Belt Review was undertaken upfront.

Paragraph 83 of the NPPF states that LPAs should establish Green Belt boundaries within their Local Plans. Once set, these boundaries can only be altered in exceptional circumstances, through the preparation or review of their Local Plan. As BDC are aware that a Green Belt Review is required, they should be undertaking this process now, as part of the preparation of their Local Plan. To undertake a review of Green Belt boundaries at a later date would be contrary to the guidance set out in the NPPF.

In the case of Rushcliffe Borough Council, the Inspector considered that Green Belt was also a strategic matter which should be addressed through the Local Plan, rather than be reviewed at a later date. The Inspector states that '*a Green Belt Review, if necessary should have taken place as the Core Strategy was being prepared and before it was finalised and submitted*'. Rushcliffe have since deferred their Core Strategy and issued a Green Belt Review document for consultation to address the concerns of the Inspector.

Both Lichfield District Council and East Cambridgeshire District Council have also recently been advised by Inspectors that not undertaking a proposed Green Belt Review as part of their Local Plan

and deferring it to a later date is not acceptable. In the case of Lichfield, a proposed Green Belt Review was to be undertaken as part of their Local Plan Allocations document. This was queried by the Inspector during the Hearing who stated that housing need was a strategic issue and therefore should be addressed through the Local Plan. Lichfield District Council has since acknowledged that a Green Belt Review must be undertaken as part of the Local Plan preparation and they have now revised their suggestion for a future Green Belt Review.

East Cambridgeshire District Council were proposing a review of Green Belt boundaries through future masterplans. However, the Inspector stated that this approach conflicted with the plan-led approach outlined in the NPPF and Green Belt boundaries should only be looked at through the preparation or review of the Local Plan.

The BDP is not consistent with national policy, particularly in regard to Green Belt and housing requirements. In light of recent decisions at Rushcliffe, Lichfield and East Cambridgeshire, the BDP is at significant risk of being found unsound by an Inspector.

7. What changes do you consider necessary to make the BDP sound?

In order for the BDP to be considered 'sound', it must be positively prepared, justified, effective and consistent with national policy.

By deferring the submission of the BDP until Birmingham's housing requirements within Bromsgrove are confirmed, and then undertaking the review of the Green Belt, it could be demonstrated that the BDP has met and allocated its full housing need, as well as that for Birmingham under the Duty to Cooperate. In taking this approach, BDC would be able to demonstrate that their Plan is positively prepared, as it would fully meet its objectively assessed housing needs, as well as contributing towards those of its neighbours; is justified, as this approach would be the most suitable when considering other strategies such as postponing the Green Belt Review; is effective as it is fully deliverable for the Plan period and is based on joint working with neighbouring authorities; and is consistent with national policy in terms of housing, as it will be able to meet Bromsgrove's full housing needs, review the Green Belt at the appropriate time and identify housing sites for years 11-15.

Summary

Following consideration of the above, we contend that the Bromsgrove District Plan is therefore **not legally compliant** and **unsound**, as the delayed release of Green Belt does not allow the Council to meet its own objectively assessed housing targets for the Plan period, or to assist BCC in meeting theirs.

As outlined above, a number of other LPAs have had their Local Plans found unsound or not legally compliant for taking a similar approach to that of the BDP. BDC are therefore putting the progression of their Local Plan at significant risk if it is moved forward to submission stage as it stands.

We would therefore strongly encourage the Council to consider deferring submission of the BDP until Birmingham's housing requirements outside of its administrative boundaries have been confirmed and then undertake the Green Belt Review. This will allow the identification of land to enable BDC to meet its full housing requirement, as well as identifying land such as that at Kingswood Grange to assist BCC to meet their requirement under the Duty to Cooperate and thus ensuring a legally compliant and sound plan.

We trust that you will take our comments into consideration and look forward to receiving notification that the submission of the Plan has been deferred, pending further consideration of the Green Belt Review. Should you wish to discuss any of the above or have any questions please do not hesitate to contact me.

Yours faithfully,



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In taking the approach to defer the Green Belt Review and only meeting housing requirements to 2023, the BDP is not meeting its objectively assessed development requirements, including those of neighbouring authorities and therefore it is not deemed to have been 'positively prepared'.

Justified

The strategy of the Local Plan in not reviewing the Green Belt now so that it can meet Bromsgrove's housing requirements and those of BCC is not appropriate when considered against the alternatives. An alternative strategy would be to defer the submission of the BDP until such a time as the requirements of BCC are made clear, and a full Green Belt Review has been undertaken, as detailed above in part 4 of this letter. As discussed, this will allow the Plan to be legally compliant, and therefore represents the best strategy for the Plan. This will also ensure that it is 'justified' in the test of soundness.

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Consistent with National Policy

For each of the reasons described above, the BDP is not consistent with the NPPF. In addition, Paragraph 47 of the NPPF required Plans to meet the full objectively assessed needs for market and affordable housing. A specific deliverable supply of sites should be identified for years 6-10 and where possible, years 11-15. The BDP does not meet its full needs for market and affordable housing. Rather, it only meets needs to 2023. It also does not identify specific sites for years 11-15. Whilst this is only required by the NPPF '*where possible*', it would be possible for BDC to meet this requirement if the Green Belt Review was undertaken upfront.

Paragraph 83 of the NPPF states that LPAs should establish Green Belt boundaries within their Local Plans. Once set, these boundaries can only be altered in exceptional circumstances, through the preparation or review of their Local Plan. As BDC are aware that a Green Belt Review is required, they should be undertaking this process now, as part of the preparation of their Local Plan. To undertake a review of Green Belt boundaries at a later date would be contrary to the guidance set out in the NPPF.

In the case of Rushcliffe Borough Council, the Inspector considered that Green Belt was also a strategic matter which should be addressed through the Local Plan, rather than be reviewed at a later date. The Inspector states that '*a Green Belt Review, if necessary should have taken place as the Core Strategy was being prepared and before it was finalised and submitted*'. Rushcliffe have since deferred their Core Strategy and issued a Green Belt Review document for consultation to address the concerns of the Inspector.

Both Lichfield District Council and East Cambridgeshire District Council have also recently been advised by Inspectors that not undertaking a proposed Green Belt Review as part of their Local Plan and deferring it to a later date is not acceptable. In the case of Lichfield, a proposed Green Belt Review was to be undertaken as part of their Local Plan Allocations document. This was queried by the Inspector during the Hearing who stated that housing need was a strategic issue and therefore should be addressed through the Local Plan. Lichfield District Council has since acknowledged that a Green Belt Review must be undertaken as part of the Local Plan preparation and they have now revised their suggestion for a future Green Belt Review.

East Cambridgeshire District Council were proposing a review of Green Belt boundaries through future masterplans. However, the Inspector stated that this approach conflicted with the plan-led approach outlined in the NPPF and Green Belt boundaries should only be looked at through the preparation or review of the Local Plan.

The BDP is not consistent with national policy, particularly in regard to Green Belt and housing requirements. In light of recent decisions at Rushcliffe, Lichfield and East Cambridgeshire, the BDP is at significant risk of being found unsound by an Inspector.

7. What changes do you consider necessary to make the BDP sound?

In order for the BDP to be considered 'sound', it must be positively prepared, justified, effective and consistent with national policy.

By deferring the submission of the BDP until Birmingham's housing requirements within Bromsgrove are confirmed, and then undertaking the review of the Green Belt, it could be demonstrated that the BDP has met and allocated its full housing need, as well as that for Birmingham under the Duty to Cooperate. In taking this approach, BDC would be able to demonstrate that their Plan is positively prepared, as it would fully meet its objectively assessed housing needs, as well as contributing towards those of its neighbours; is justified, as this approach would be the most suitable when considering other strategies such as postponing the Green Belt Review; is effective as it is fully deliverable for the Plan period and is based on joint working with neighbouring authorities; and is consistent with national policy in terms of housing, as it will be able to meet Bromsgrove's full housing needs, review the Green Belt at the appropriate time and identify housing sites for years 11-15.

Summary

Following consideration of the above, we contend that the Bromsgrove District Plan is therefore **not legally compliant** and **unsound**, as the delayed release of Green Belt does not allow the Council to meet its own objectively assessed housing targets for the Plan period, or to assist BCC in meeting theirs.

As outlined above, a number of other LPAs have had their Local Plans found unsound or not legally compliant for taking a similar approach to that of the BDP. BDC are therefore putting the progression of their Local Plan at significant risk if it is moved forward to submission stage as it stands.

We would therefore strongly encourage the Council to consider deferring submission of the BDP until Birmingham's housing requirements outside of its administrative boundaries have been confirmed and then undertake the Green Belt Review. This will allow the identification of land to enable BDC to meet its full housing requirement, as well as identifying land such as that at Kingswood Grange to assist BCC to meet their requirement under the Duty to Cooperate and thus ensuring a legally compliant and sound plan.

We trust that you will take our comments into consideration and look forward to receiving notification that the submission of the Plan has been deferred, pending further consideration of the

Green Belt Review. Should you wish to discuss any of the above or have any questions please do not hesitate to contact me.

Yours faithfully,

