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Strategic Planning
Planning and Regeneration
Bromsgrove District Council
Burcot Lane
Bromsgrove
Worcestershire
B60 1AA

BY POST AND EMAIL

19582/A3/GF/sw

11th November 2013

Dear Sir or Madam,

**BROMSGROVE DISTRICT PLAN PROPOSED SUBMISSION VERSION
RESPONSE BY GALLAGHER ESTATES**

We are instructed on behalf of Gallagher Estates to submit representations to the Bromsgrove District Plan Proposed Submission Version (BDP), principally in connection with the proposed allocation of land at Norton Farm, Bromsgrove. 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.

Our main focus within these representations is the projected housing figures and the proposal to defer the review of the Green Belt boundary, meaning that there is currently insufficient land identified within the Plan to meet the identified housing requirements.

Legal Compliance

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.

No allowance within the Plan has been made for the need to accommodate some of Birmingham City Council's (BCC's) housing requirement under the Duty to Cooperate. It has long been apparent since BCC issued their Birmingham Development Plan Option Consultation (October 2012) that they are unable to meet the City's housing requirements within their administrative boundary and that land for some 30,000 additional dwellings would be required. During a BCC Cabinet Meeting on 21st



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FS 29637

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. 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. By failing to give due consideration to the needs of BCC, the BDP is not considered to be legally compliant under Paragraph 182 of the NPPF.

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 BPD will also not be found to be legally compliant at Examination due to non-compliance with the duty to cooperate and the NPPF.

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 greater consideration to helping BCC meet their housing requirements. This should be done through the preparation of this Plan – it should not be put off for another day.

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Paragraph 182 of the National Planning Policy Framework (NPPF) requires Local Plans to be 'sound'. In order to be found sound, they must meet the following criteria:

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Whilst we do not disagree that the residual housing requirements will need to be developed within the Green Belt, the overall approach is contrary to guidance provided within the NPPF and as such, the BDP is unsound.

Whilst the overall housing requirement within the Local Plan has been set by the 2012 Worcestershire Strategic Housing Market Assessment (SHMA), Paragraph 14 of the NPPF requires Local Plans to "*meet objectively assessed needs, with sufficient flexibility to adapt to rapid change*". Notwithstanding the likelihood that Bromsgrove will have to accommodate additional housing to meet some of Birmingham's needs, it is considered that the target of 7,000 dwellings should be viewed as a minimum requirement, in order to allow for this required flexibility. 2

The table at Paragraph 8.22 demonstrates how development will come forward during the period 2011 – 2023 (12 years). This includes an allowance for 480 'windfall' dwellings. Paragraph 8.21 identifies that an allowance for 30 windfall dwellings per annum should be made, based on previous trends. The table includes completions from 2011-2013, therefore, in order to avoid double counting, the windfall allowance should be taken for the period 2013 – 2023 (10 years). This equates to 300 dwellings, rather than the 480 dwellings outlined within the table. As such, only 4,420 dwellings will be constructed in the period to 2023, leaving a residual minimum requirement of 2,580 to be developed on Green Belt land.

Given the additional flexibility required by the NPPF, the miscalculation of windfall allowance and the potential requirement to accommodate some of BCC's housing requirements as discussed above, the submission of the Plan for Examination is considered to be premature and additional land for housing should be allocated within this review of the Plan.

Paragraph 47 of the NPPF requires Plans to meet their 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's strategy to only identify sufficient sites to 2023 and then suggest a Green Belt Review is contrary to the NPPF as the Council's development requirements are not deliverable over the Plan period and this does not represent a sustainable approach.

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. 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*'. There is a clear acceptance that the Green Belt boundaries will need to be reviewed. No substantial justification has been provided to support the Council in taking their approach to defer the Green Belt Review, other than urgency to adopt the Plan, and the fact that adequate housing land has been identified to 2023 (although this is questionable given the windfall issue and lack of consideration to the needs of BCC).

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 land to accommodate an additional 2,580 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.

In taking the approach to defer the Green Belt Review and only meet 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*' as required by the NPPF.

A number of LPAs who have adopted a similar approach to Bromsgrove in delaying a review of their Green Belt Boundaries have been unable to progress through Examination. 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 stated 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

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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.

In order to ensure that the BDP is sound, consideration should be afforded to undertaking a Green Belt Review prior to the Plan's submission for Examination. This will allow for the identification of sites to meet the full requirements of the Plan. Through this, consideration should be given to opportunities for expanding currently allocated sites which could contribute towards requirements post 2023, or be brought forward if necessary. This will allow for the additional flexibility which is required by Paragraph 14 of the NPPF.

One such opportunity would be at Norton Farm, Bromsgrove, which is an emerging allocation within the BDP (Policy BDP5A). It also has outline planning permission for 316 dwellings. Bromsgrove is designated as a "*main town*" within Policy BDP2 of the Plan, meaning that it is sustainable and the main focus for growth. The site at Norton Farm, which is controlled by Gallagher Estates, could be extended by 1.63ha to incorporate approximately a further 57 dwellings, which will compensate for some of the shortfall to 2023 created by the miscalculation of windfall allowance. By incorporating this area into the emerging allocation, this will assist the BDP in meeting its housing requirements, incorporate flexibility, and allow for the comprehensive redevelopment of the site.

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 Bromsgrove District Council to meet its own housing targets for the Plan period, or to assist BCC in meeting theirs.

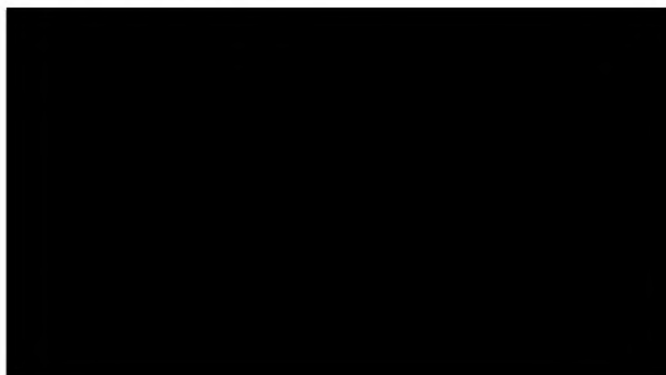
In addition, the level of housing required within the District should be reconsidered as the Plan does not currently allow for flexibility or the needs of Birmingham City Council. It also does not correctly calculate the number of dwellings to be delivered through windfall sites, meaning that it falls 180 dwellings short of its target to 2023.

As outlined above, a number of other LPAs have had their Local Plans found unsound for taking a similar approach to that of the BDP to defer their Green Belt Review. 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 Bromsgrove District Council to consider deferring the submission of the BDP to allow for a Green Belt Review. This will enable the identification of land to assist BDC in meeting its full housing requirement. Through this, the extension of current emerging allocations should be considered to allow additional flexibility.

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,



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: No:

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: No:

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)

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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)

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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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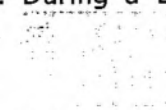
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Yours faithfully,



TOWN PLANNING
MASTERPLANNING & URBAN DESIGN
ARCHITECTURE
LANDSCAPE PLANNING & DESIGN
PROJECT MANAGEMENT
& COST CONSULTANCY

ENVIRONMENTAL
& SUSTAINABILITY ASSESSMENT
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Part B (see Note 1 and Note 8 para 4.2)

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Name or Organisation (see Note 8 para 4.1)

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Yes: No:

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Do you consider the BDP is **unsound** because it is not:

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(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

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: No:

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: No:

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.

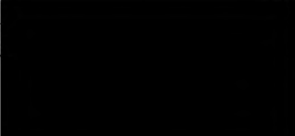
After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

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