

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.

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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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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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Strategic Planning
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B60 1AA

BY POST AND EMAIL

23066/A3/GF/sw

11th November 2013

Dear Sir or Madam,

**BROMSGROVE DISTRICT PLAN PROPOSED SUBMISSION VERSION
RESPONSE BY KLER GROUP LIMITED**

We are instructed on behalf of Kler Group Limited 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.

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 requires Local Planning Authorities (LPAs) to 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).

No allowance has been made within the Plan 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. This was reiterated during a BCC Cabinet Meeting on 21st October 2013, with particular reference being made to Bromsgrove District Council (BDC) absorbing some of this requirement. Clarity will be provided on the housing requirements of BCC outside of its administrative area through the Greater Birmingham and Solihull Local Enterprise Partnership's Strategic Housing Needs Study, which is anticipated to be signed off in early February



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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 to BDC. Prior to the Examination of Rushcliffe Borough Council's Core Strategy, 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.

Coventry City Council recently withdrew their Local Plan from the Examination process after the Inspector found that the Council had not cooperated with neighbours constructively and was therefore not legally compliant. As with the BDP, Coventry's Local Plan resolved to address any shortfall in neighbouring authorities housing requirements at a later date. 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 meet the full requirements of the Duty to Cooperate, and have better regard for the NPPF in addressing strategic priorities through the Plan. BDC therefore 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.

Soundness

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:

- 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.

2 The BDP sets a target for 7,000 new dwellings to be constructed within BDC by 2030 (Policy BDP3). 4,600 dwellings will be developed outside of the Green Belt during the period to 2023, with the residual 2,400 dwellings to be built on Green Belt land after 2023, following a review of Green Belt boundaries within the District. This approach to defer the review of the Green Belt is contrary to guidance provided within the NPPF and as such, the BDP is unsound.

Paragraph 47 of the NPPF requires Plans to meet their full objectively assessed needs for market and affordable housing, whilst Paragraph 14 requires Local Plans to "*meet objectively assessed needs, with sufficient flexibility to adapt to rapid change*". The BDP target of 7,000 dwellings should therefore be viewed as a minimum, in order to allow for this required flexibility.

Paragraph 47 of the NPPF goes on to require that a specific deliverable supply of sites is 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 requirements of the NPPF as the Council's development needs are not flexible and are not deliverable over the Plan period and this does not represent a sustainable approach.

The NPPF states that Green Belt boundaries should be established in Local Plans (Paragraph 83). 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 acknowledges that a Green Belt review is '*essential*'. 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 needs, 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 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. Both authorities were proposing a review at a later date through other documents. In both cases this approach was queried by Inspectors who considered that the strategic issue of housing should be addressed through the Local Plan and that a Green Belt Review through other documents would be contrary to the plan-led approach outlined in the NPPF.

In order to ensure that the BDP is sound, a Green Belt Review should be undertaken prior to the Plan's submission for Examination to allow for the identification of sites to meet the full needs of the Plan. This will create the additional flexibility, as required by Paragraph 14 of the NPPF.

Summary

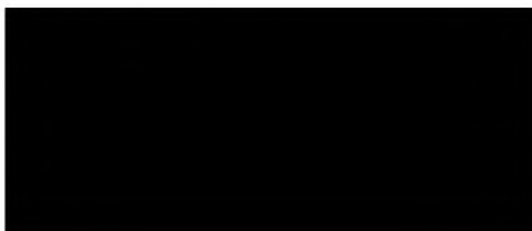
Following consideration of the above, we contend that the BDP is therefore **not legally compliant and unsound**, as the delayed release of Green Belt does not allow the BDC to meet its own housing targets for the Plan period, or to assist BCC in meeting theirs.

As detailed above, a number of other LPAs have had their Local Plans found to be unsound and not legally compliant 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 BDC 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,



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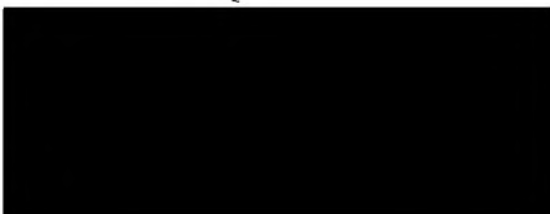
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