

TEWKESBURY BOROUGH PLAN EXAMINATION – LIST OF MATTERS, ISSUES AND QUESTIONS – 16TH DECEMBER 2020

MATTER 1:

DUTY TO CO-OPERATE AND OTHER LEGAL REQUIREMENTS

ON BEHALF OF: ROBERT HITCHINS LTD

Pegasus Group

Pegasus House | Querns Business Centre | Whitworth Road | Cirencester | Gloucestershire | GL7 1RT

T 01285 641717 | **F** 01285 642348 | **W** www.pegasusgroup.co.uk

Birmingham | Bracknell | Bristol | Cambridge | Cirencester | East Midlands | Leeds | Liverpool | London | Manchester | Newcastle | Peterborough

DESIGN | **ENVIRONMENT** | **PLANNING** | **ECONOMICS** | **HERITAGE**

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Pegasus is instructed by Robert Hitchins Ltd to submit a Statement in respect of Matter 1, pursuant to the Matters and Questions identified by the Examination Inspector.

Separately additional Statements have been submitted in respect of the following Matters:

- Matter 2
- Matter 3
- Matter 6
- Matter 7

Pegasus previously submitted representations in response to the Reg 19 Pre-Submission Plan in November 2019 and the Preferred Options Consultation in November 2018. The Hearing Statements should be read alongside our representations and supporting evidence.

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1. Issue: Whether the Council has complied with the duty to co-operate and other legal requirements.

Questions:

1.1 Duty to Co-operate:

- **Strategic planning issues relating to the borough have been addressed in the first instance through the preparation of the JCS which met the duty to co-operate. Are there any strategic matters dealt with by the TBP to which the duty applies and, if so, which other authorities and organisations are affected by them?**

1.1.1 Pegasus have not comments on the Duty to Co-operate.

- **If relevant, for each of the strategic matters to which the duty applies, how has the engagement been carried out, what has been the outcome and how has this addressed the strategic matter?**

1.1.2 This is a matter for the Council to explain.

- **Overall, has the Council engaged constructively, actively and on an on-going basis with the relevant bodies in maximising the effectiveness of the TBP in relation to the strategic matters? Has the duty to co-operate been met?**

1.1.3 This is a matter for the Council to explain.

1.2 Has the preparation of the plan complied with the 2004 Planning and Compulsory Purchase Act and the relevant regulations?

1.2.1 Pegasus have no issues with the way in which the Council has complied with the regulations.

1.3 Has the preparation of the plan complied with the Statement of Community Involvement?

1.3.1 This is a matter for the Council to explain.

1.4 Is the plan been prepared in accordance with the Local Development Scheme?

1.4.1 This is a matter for the Council to explain.

1.5 Have the likely environmental, social and economic effects of the plan been adequately addressed in the Sustainability Appraisal? Does the appraisal test the plan against reasonable alternatives for the distribution of housing and employment land? (This is not an opportunity to discuss the merits of individual sites).

1.5.1 Representations have been made (ID 254) in respect of CD006 that the approach the Council has followed in undertaking the Sustainability Appraisal is flawed, as whilst it has excluded sites that do not accord with the spatial distribution of settlements as defined in the JCS (DP001) Policy SP2, it has not necessarily come to that decision having reviewed the evidence base on which those sites were excluded.

1.5.2 Sites considered as not suitable or achievable have been excluded from CD006, without the benefit of an up to date evidence base. Without going into detail of an particular cases, it is evident that in coming to the conclusion to exclude sites, the evidence base has not been reviewed in respect of landscape protection zones.

1.5.3 The CD006 page 31 refers:

“Landscape Protection Zone covers the majority of the western half of the Borough. This local designation recognises, protects and enhances the riparian landscape of the Rivers Severn and Avon and their tributaries to include the washland enclosed by adjacent hills and bluffs and associated landscape features.”

1.5.4 The implications for this designation are set out in the table on page 31:

“LPZs should be protected from development where alternative, less sensitive, sites are available. The cumulative effects of development on the landscape will also be an important consideration for the Plan.”

1.5.5 In this case in coming to a judgement about a site, the evidence base has not been updated since the adoption of the current local plan in March 2006. Representations have been made in respect of the policy in Matter 7.

1.5.6 Paragraph 1.11 of the Procedure Guide for Local Plan Examinations (PINs June 2019 {5th Edition}) states that:

“Evidence base documents, especially those relating to development needs and land availability, that date from two or more years before the submission date may be at risk of having been overtaken by events, particularly as they may rely on data that is even older. As a minimum, any such documents should be updated as necessary to incorporate the most recent available information. But this may not be necessary for evidence documents on topics that are less subject to change over time, such as landscape character assessments.”

1.5.7 EB018 is a landscape sensitivity study, but it does not provide a review of any Landscape Protection Zones.

1.5.8 It is considered that the policy in question is not consistent with national policy as it is based on potentially out-dated evidence that may not be accurate or relevant. This brings into question the credibility of the approach taken to Landscape Protection Zones and consequently the appropriateness of applying the designation to the site selection and assessment which has led to some sites being excluded from the potential allocations, but others (arguable less sustainable) within the Landscape Protection Zone being included, for example Policy FOR1. Consequently not only has the evidence base not been reviewed, but its application is inconsistent.

1.5.9 The SA is an iterative process and as stated in paragraph 1.15 of CD006:

“As the plan develops, stages and tasks in the SA process may be revisited, updated or refreshed in order to take account of updated or new evidence, as well as consultation representations.”

1.5.10 Despite representations being submitted which are reported in CD006 the omission site was excluded from the SA.

1.6 Does the Habitats Regulations Assessment identify likely significant effects of the plan on European nature conservation sites? If so, are appropriate mitigation measures put forward, what are these and how will they be secured? Do the policies of the plan secure the necessary mitigation? Does English Nature agree with the HRA findings?

1.6.1 This is a matter for the Council to explain.

1.7 Does the local plan include policies designed to secure that the development and use of land contribute to the mitigation of, and adaptation to, climate change in accordance with Section 19 (1A) of the 2004 Act? If so, which?

1.7.1 This is a matter for the Council to explain.

1.8 How has the preparation of the plan complied with the Public Sector Equalities Duty?

This is a matter for the Council to explain.