

TEWKESBURY BOROUGH PLAN: EXAMINATION 2020

Matter 1 – Duty to Cooperate and Legal Compliance

Statement on behalf of Richborough Estates (RE) ID. 337 and
341

January 2021

Approval for issue

Authorised by:

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2021-01-29

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Matter 1 – Duty to Cooperate and Legal Compliance

Main Issue

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

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?*
- *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?*
- *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?*

1.1.1 RE notes that TBC has submitted to the examination a separate paper on Duty to Cooperate [CD008]. This explains how the duty has been met with regards to carrying out the appropriate engagement with prescribed bodies as well as other relevant parties.

1.1.2 RE concurs with the Inspector's view that those strategic matters affecting Tewkesbury Borough have been addressed in accordance with the duty to cooperate, as stated in the JCS Inspectors Final Report [Gloucester Cheltenham and Tewkesbury Joint Core Strategy, Inspector's Report October 2017, paragraph 17].

1.1.3 Section 5 of CD008 also deals with ongoing engagement with local authorities outside the County. In particular, the paper addresses the engagement undertaken with Wychavon District in respect to the proposals to bring forward 500 dwellings on land at Mitton as a contribution towards Tewkesbury needs, but which lies within Wychavon [CD008, para 5.2-5.3].

1.1.4 RE recognise that the allocation of the Mitton site will be formally addressed through the preparation of the South Worcestershire Development Plan review (SWDPR), nonetheless the current timetable for the SWDPR indicates that the revised plan is programmed for adoption in 2023, and so is unlikely be in place before the TBP is adopted.

- 1.1.5 In this context, RE is aware that a live planning application has been submitted and is in the process of being considered by Wychavon District Council in consultation with TBC.
- 1.1.6 Consequently, RE concurs with the Council that there are no duty to cooperate issues relating to the preparation of the TBP.

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)?*

General Comments

- 1.5.1 RE broadly supports TBC's overall approach to testing the likely environmental, social and economic effects of the plan and also broadly supports the overall testing of the plan against reasonable alternatives for the distribution of housing land, as set out in the Sustainability Appraisal [CD006]. RPS contends that, in general terms, the Council is clearly cognizant of the need for the appraisal process to accord with the legal framework with respect to significant effects of the plan and any appropriate 'reasonable alternatives', as summarised in the SA 'Legal Compliance' statement [CD006, Appendix 1].
- 1.5.2 In relation to the likely significant effects of the plan, the Council's evidence is set out in sections 5, 6 and 7 and at Appendices IV to VII of CD006. The likely effects of the settlement boundaries and individual site options are set out at Appendix V and VI respectively, which were determined against the SA Framework as set out at section 2 of CD006.
- 1.5.3 With regards to the testing of the plan against reasonable alternatives for housing, the overall approach taken by the Council is summarised in Section 4 of CD006, with references made to relevant case law on this matter. In defining and testing reasonable alternatives for the distribution of housing land in the TBP, it is important to recognise that the TBP is not a strategic plan and that its primary role is to address the local housing needs of Tewkesbury Borough. In this regard, the SA recognises that it is the Joint Core Strategy (JCS) [CD012] that provides the high-level strategic policies and allocations for the JCS area; under which the TBP supports this framework with more detailed, locally-specific planning policies and non-strategic allocations for development in Tewkesbury Borough. The TBP, as stated in the SA, therefore needs to reflect and be consistent with the policies in the JCS [CD006, para 3.5].
- 1.5.4 Specifically, the JCS requires that growth is distributed in accordance with the defined settlement hierarchy; these being Tewkesbury Town; Rural Service Centres; and Local Service Villages (including Shurdington), and to sites covered by any Memoranda of Agreement [CD012, Policy
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SP2, criterion 4]. Consequently, the scope of any 'reasonable alternatives' should be considered in this context consistent with the strategic policies in the JCS. RPS notes that the vast majority of site options appraised in the SA, including those selected for allocation and those options rejected, are identified at the three settlement locations in accordance with the JCS. On this basis, RE considers that the SA has adequately tested the plan against reasonable alternatives for the distribution of housing in the Borough.

Comments on Shurdington

- 1.5.5 In broad terms (and observing the Inspector's clear instruction this is not an opportunity to observe the merits of individual sites), in relation to the SA of Shurdington settlement boundary, RPS acknowledges that the settlement performs very well in comparison with other eleven Local Service Villages (LSVs) in the Borough [CD006, Table 6.1]. This confirms Shurdington as being one of the most sustainable settlements in Tewkesbury Borough where additional growth should be accommodated to facilitate the delivery of housing to support local needs of the area.
- 1.5.6 With regards to the approach taken by the Council in appraising and testing the plan against reasonable alternatives at Shurdington, RPS notes that the SA process tested four potential housing site options (CD006, Table 6.2/Appendix VI_38-42/139). These were, in turn, drawn from a larger group of (seven) sites considered through the site assessment process summarised in the Housing Background Paper 2019 [EB013, Appendix E and F]. The site assessment process determined that these three sites were 'suitable and available' in line with the site assessment methodology [EB013, Table 8]. In addition, the reasons for selection or non-progression of site options was also explained in the SA [CD006, Table 6.3]. Finally, the selected sites at Shurdington (including SHU1) was then tested as part of the refinement of the plan policies and site allocations [CD001, Table 7.2] prior to the Regulation 19 consultation in 2019. Further commentary on the preferred site allocations at Shurdington is also set out in the SA [CD006, para 7.60-7.66] following the refinement exercise.
- 1.5.7 Nonetheless, RPS submitted objections at the Regulation 19 stage on behalf of Richborough Estates, regarding specific aspects of the SA process in relation to the treatment of Shurdington settlement boundary and the appraisal of site allocations proposed at the settlement. As set out in our representations on the SA, RPS does not agree with certain aspects of the SA scoring for the settlement of Shurdington. Specifically, the score of 'minor negative' applied to the Landscape objective (SA Objective 11) for Shurdington unjustifiably downgrades the performance of Shurdington in this regard. To the contrary, RPS considers that a more appropriate score would be 'neutral' at worst, and possibly even 'positive'. This is because the existing settlement boundary of Shurdington, whilst adjacent to the Cotswold AONB, is contiguous to the AONB on only one side
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(to the east) and does not extend into it [CD003, Map 21]. New development within the settlement boundary would therefore accord with the policies of the existing local plan and the TBP and therefore would constitute sustainable development in principle. Furthermore, those parcels of land selected for allocation are located to the north, south and west of the village, including along Badgeworth Lane, which lie outside both the AONB and any designated Special Landscape Areas (SLAs), where the Council's own landscape sensitivity analysis acknowledges these parts of Shurdington as being less problematic than in areas to the east of the settlement [EB020, Appendix B, pdf page 190]. Furthermore, as highlighted in our representations, more recent evidence prepared by Toby Jones Associates [EB021, Appendix A, page 12] confirms that the options for growth at Shurdington would not adversely affect the character of the settlement.

- 1.5.8 Consequently, the SA is not justified in how it treats Shurdington as likely to have a 'negative' effect in landscape terms. The SA should therefore be adjusted to reflect the available evidence submitted to this examination.
- 1.5.9 Therefore, responses made in respect to the appraisal of Land at Badgeworth Lane, Shurdington (SHU1) is dealt with in the Matter 3 statement.