

TEWKESBURY BOROUGH COUNCIL LOCAL PLAN EXAMINATION

Matter 7 – Hearing Statement Other Policies (Policies RET1, RET3, RET4, RET5, RET8)

On behalf of

Robert Hitchins Limited (ID Reference Number 331)

MB/JT/24177
Hearing Statement (ID
Reference Number 331)
Matter 7 – Other Policies
January 2021

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ID REFERENCE NUMBER 331**
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Approval for issue

Mark Buxton

January 2021

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Contents

1	INTRODUCTION.....	1
2	RESPONSE TO THE MATTERS, ISSUES AND QUESTIONS IDENTIFIED BY THE INSPECTOR	2
3	CONCLUSIONS/PROPOSED MODIFICATIONS	7

Appendices

	Appendix A Relevant Representations to the Regulation 19 Pre-Submission Publication Local Plan 2011-2031 (November 2019)	8
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1 INTRODUCTION

- 1.1 We are instructed by our client, Robert Hitchins Limited, to submit a Hearing Statement and appear at the Tewkesbury Local Plan Examination on their behalf in relation to the submitted Regulation 19 Pre-Submission Local Plan 2011-2031 (October 2019); Schedule of Changes Addendum (May 2020); Tracked Change Pre-Submission Plan (May 2020); Response to Inspector's Requests (December 2020); and associated evidence base.
- 1.2 The most up-to-date draft Local Plan policies are contained within the Tracked Change Pre-Submission Plan (May 2020) and Response to Inspector's Requests (December 2020).
- 1.3 RPS has submitted representations on behalf of our client to previous stages of the Draft Local Plan including the Draft Policies and Site Options (April 2015); Preferred Options Stage (November 2018); and the Regulation 19 Pre-Submission Local Plan 2011-2031 stage (November 2019).
- 1.4 The relevant representations to the Regulation 19 Pre-Submission Local Plan 2011-2031 consultation are enclosed within **Appendix A** of this Statement for ease of reference.
- 1.5 This Statement details our client's responses to selected questions under Matter 7 of the Matters, Issues and Questions identified by the Inspector (dated 16 December 2020).

2 RESPONSE TO THE MATTERS, ISSUES AND QUESTIONS IDENTIFIED BY THE INSPECTOR

Matter 7 – Other Policies

Question 7.3: *Are the various AGR, TOR, RET, DES, HER, LAN, NAT, ENV, HEA, RCN, COM and TRAC policies in the plan positively prepared, justified, effective, consistent with national policy and, where relevant, the JCS? In some cases there are specific additional questions:*

RET1 Maintaining the vitality and viability of the town, borough and local centres

- *Is the Tewkesbury town centre boundary and the extent of the primary shopping frontages justified?*
- *Are the boundaries of the other designated retail centres justified?*
- *Should the local centres in the strategic allocations be specified?...*

...RET3 Retail centres

- *Is the policy effective given the changes to the use classes order?*
- *Should the local centres in the strategic allocations be specified?*

RET5 Single or small groups of shops in residential areas

- *Is the policy effective and is the 280 sqm figure justified?...*

2.1 In order to answer the overarching Question 7.3, our response to this question focuses in turn on each of the relevant RET policies to determine whether they are positively prepared, justified, effective, consistent with national policy, and, where relevant, consistent with the Joint Core Strategy (JCS).

2.2 Our responses relating to Policies RET1, RET3 and RET5 also consider the specific questions identified under Question 7.3.

Policy RET1

2.3 Our response in respect of Policy RET1 focusses on the second and third specific questions. We address question 3 first.

“Should the local centres in the strategic allocations be specified?”

2.4 Whilst a number of the JCS Strategic Allocations, including the Innsworth Strategic Allocation (Policy A1) are now referenced in the supporting text (paragraph 6.8), we consider that in addition these should be specified within the policy itself alongside other Local Centres. This is required for clarity and to ensure there is no doubt that the local centres within these Strategic Allocations enjoy the same status as other Local Centres already listed under policy RET1. This will provide a clear policy steer and avoid any potential confusion at the Development Management stage.

2.5 Furthermore, the Strategic Allocations comprising Local Centres are not identified on the Retail and Centres Maps (Evidence Base reference CD002c) or Borough Wide Proposals Map

(Evidence Base reference CD003). To ensure the policy is not misconstrued, we consider the JCS Strategic Allocations comprising Local Centres should be identified on the Retail and Centres Maps and Borough Wide Proposals Map.

“Are the boundaries of the other designated retail centres justified?”

- 2.6 We have concerns in respect of the approach taken in the draft Tewkesbury Borough Plan (TBP) to the approved development at land South of the A46 and North of Tirl Brook, Ashchurch, Tewkesbury, which is included as a Strategic Allocation within Policy A5 of the JCS for approximately 14ha of ‘employment generating’ land.
- 2.7 Outline planning permission (ref: 13/01003/OUT) was approved in June 2016 for a proposed garden centre, retail outlet centre and associated works. Subsequently, a Reserved Matters application has been approved in June 2020 (ref: 19/00409/APP) for Phase 1 of the development. Reserved Matters applications for the retail outlet centre element of the development (ref: 20/00442/APP) and garden centre element of the development (ref: 20/00712/APP) were submitted in July 2020 and August 2020 respectively.
- 2.8 The JCS Inspector’s Report dated October 2017 (para 184) specifically states *‘Whilst Ashchurch is allocated for employment uses in the JCS, outline planning permission was granted in March 2016 (sic) by the Secretary of State for retail-led development. Therefore, to be effective, modifications are needed to amend the use of this allocation to “employment generating” development, which would include retail’.*
- 2.9 Policy RET1 should, therefore, include reference to allocations that include retail, such as that of Land South of the A46, Ashchurch, as it is not currently clear whether these sites are encompassed within the current draft policy Policy RET1 which states *“the local centres provided within the Joint Core Strategic Allocations will also be the subject of this policy”.*
- 2.10 Therefore, the draft policy does not adequately make provision for the full extent of JCS designations and the reference in the draft policy to ‘designated retail areas’ should be revisited as it is inconsistent with both the NPPF and Policy SD2 of the adopted JCS. We continue to assert the need to amend the terminology used within this policy to make it sound, as we did at the Site Options; Preferred Options; and Regulation 19 stages of consultation.
- 2.11 Therefore, for the reasons considered above, in response to Question 7.3 of the Matters, Issues and Questions, we consider that the draft Policy is not positively prepared or justified, and nor is it consistent with the NPPF and JCS.

Policy RET3

“Is the policy effective given the changes to the Use Classes Order”

- 2.12 With regard to this specific question, we consider that the changes to Policy RET3 set out within the Council’s ‘Response to Inspector’s Requests’ dated December 2020 (i.e. amending references to Classes A1-A5 to ‘retail related uses’ as defined within the amendment to Policy RET1) is effective in addressing the changes to the Use Class Order in September 2020.
- 2.13 We also note and welcome the Council’s updated references to Class E, such as within Policy RET2 as proposed within the Response to Inspector’s Requests (December 2020) (EXAM002A). Clearly these modifications will need to be formalised in the finalised Local Plan.

“Should the local centres in the strategic allocations be specified?”

- 2.14 With regard to this second question, for the reasons set out within this Statement in relation to Policy RET1, we continue to aver that the retail development which benefits from planning permission at the Innsworth and Ashchurch Strategic Allocations should be explicitly identified as ‘designated retail areas’ (or a suitable alternative form of words).
- 2.15 If the Council considers that they fall within the ‘Local Centres provided within the Strategic Allocations’ this should be made clear and the sites should be formally recognised in the policy. Without explicit reference to these JCS allocations, the draft policy is unclear and risks resulting in a situation whereby the sites are not properly regarded either as an existing centre or a planned allocation in an up-to-date plan; and therefore, are not afforded status in retail planning terms. We therefore reiterate our objection to RET1 with regard to the reference in the draft policy to ‘designated retail areas’ for the reasons given.
- 2.16 Our concerns relating to Policy RET3 have been raised at the Draft Policies and Site Options stage (April 2015); Preferred Options stage (November 2018); and the Local Plan Pre-Submission Regulation 19 stage (November 2019). However, the ‘Tewkesbury Borough Plan Pre-Submission Reg 19 Consultation Statement’ (April 2020) (Evidence Base reference CD004a) identifies in the ‘Summary of Responses’ Table 5 on page 13 that no comments have been received in relation to draft Policy RET3. This position is clearly not accurate in the context of the representations relating to Policy RET3 included within Appendix A of this Statement.
- 2.17 There is therefore no evidence that the Council has taken into consideration our previous representations which are reiterated within this Statement.
- 2.18 Therefore, we consider the Council has failed in this regard to accord with the Planning Inspectorate’s ‘Procedure Guide for Local Plan Examinations’ which identifies that a summary of the main issues raised through the consultation should be submitted along with copies of all representations. Policy RET3 should therefore be re-considered in the context of our previous representations and the submissions set out within this Statement.

Policy RET4

- 2.19 Whilst the Inspector has not posed a specific question on Policy RET4, as stated within paragraph 2.1 of this Statement, we have commented in the context of the Inspector’s wider Question 7.3 in respect of RET policies generally. Our response in relation to policy RET4 therefore explores whether the Policy is positively prepared, justified, effective, consistent with national policy, and, where relevant, consistent with the JCS.
- 2.20 As previously asserted within representations to the Preferred Options consultation and Pre-Submission Local Plan consultation, it is not clear what is meant by ‘designated centre’ for the purposes of Policy RET4. For the reasons set out under RET1 we consider that the retail developments which benefit from planning permission at the Innsworth and Ashchurch Strategic Allocations should be recognised in the Local Plan as ‘designated centres’ in order that they are not incorrectly treated as ‘out of centre development’.
- 2.21 In response to Question 7.3 of the of the Matters, Issues and Questions, we therefore assert that the Policy is not clear and is therefore not positively prepared or justified. It also fails to align with the JCS.

Policy RET5

2.22 We note that no proposed amendments to Policy RET5 are contained within the Tracked Change Version of the Pre-Submission Local Plan (May 2020) or Response to Inspector's Requests document (December 2020) (EXAM 002A).

"Is the policy effective and is the 280sqm figure justified"

2.23 In response to this question we continue to aver that, in its current form, the policy is not effective and cannot be considered sound. The draft policy relates to proposals for shop units to serve residential areas; however, the policy includes the requirement for sequentially preferable sites to be identified for proposals involving units over 280 sqm gross floorspace. The threshold identified within this draft policy will result in a number of sequentially preferable sites being identified in higher order centres for proposals which intend to serve new residential areas or existing settlements. In these instances, sequentially preferable sites in different locations would not meet the location-specific need to primarily serve the local community as the policy intends.

2.24 Furthermore, as previously asserted within representations to the Preferred Options consultation and Pre-Submission Local Plan consultation, we consider that draft Policy RET5 requires further clarification in terms of whether it is 'small single' or 'single or small' shop units or small groups of shops which the policy seeks to cover. The policy has not been amended to include a definition of what meant by 'small' in this context and therefore, the policy is unclear.

2.25 In response to Question 7.3 of the of the Matters, Issues and Questions, we therefore assert that the Policy is not justified or effective and should be reworded and clarified. This position remains consistent with the representations previously submitted under the Preferred Options consultation and Pre-Submission Local Plan consultation.

Policy RET8

2.26 Whilst the Inspector has not posed a specific question on Policy RET8, as stated within paragraph 2.1 of this Statement, we have commented in the context of the Inspector's wider Question 7.3 in respect of RET policies generally. Our response in relation to policy RET8 therefore explores whether the Policy is positively prepared, justified, effective, consistent with national policy, and, where relevant, consistent with the JCS.

2.27 The first paragraph of draft Policy RET8 includes proposals for extensions to new farm shops and garden centres within the countryside, in addition to new farm shops and garden centres. However, it is not clear in this policy how extensions/additions to existing farm shops and garden centres will be assessed in a situation where proposals are not directly related and ancillary to existing uses.

2.28 Furthermore, the third paragraph of the policy states: *"Proposals not in accordance with the provisions set out above will be considered against RET4."* However, it is unclear how this policy will be applied in the context of proposals for extensions to existing farm shops and garden centres. This paragraph, therefore, requires further clarification in order to be considered sound.

2.29 We continue to assert that the policy as drafted is not 'clearly written and unambiguous, so it is evident how a decision maker should react to development proposals' as required by the NPPF (paragraph 16(d)) and therefore cannot be considered to be sound. In response to Question 7.3 of the Matters, Issues and Questions, we assert that the Policy is not positively prepared or justified, and nor is it consistent with national policy.

- 2.30 We consider that the policy/text should recognise that there may be allocated sites which lie outside the Borough's defined settlement boundaries which should be excluded from the definition of countryside for the purposes of this policy.
- 2.31 We further consider the approach to garden centres and farm shops is potentially more onerous than for other out of centre retail developments. The policy as drafted states that proposals which are not in accordance with the policy will be considered under policy RET4, but then goes on to state that in all cases other controls will be applied including outdoor sales/display areas and the ranges of goods. Given those garden centres/farm shops which are not directly related and ancillary to existing agricultural/horticultural business would be required to satisfy the retail impact and sequential tests under Policy RET4, such additional controls are considered to be unnecessary.
- 2.32 Therefore, we consider that the policy should state that it relates to farm shops/garden centres which are directly related and ancillary to agricultural/horticultural businesses in the countryside **only**. In the context of paragraph 2.30 of this Statement, we also consider the policy and/or supporting text should clarify that all other types of retail, including other garden centres not related/ancillary to existing agricultural/horticultural businesses in the countryside, not in an existing centre or in accordance with the development plan, will be subject to Policy RET4 **only**.
- 2.33 Additionally, with regard to supporting paragraph 6.31 of Policy RET8, it is also unclear how a café will be determined to be ancillary in nature to the sale of plants, horticultural goods or food products grown on the property. The policy test for determining whether or not a café is ancillary is not identified and as such, the policy cannot be considered to be justified or effective.

3 CONCLUSIONS/PROPOSED MODIFICATIONS

- 3.1 On behalf of our clients, we have a number of concerns in relation to the approach taken by the Council towards draft Policies RET1, RET3, RET4, RET5 and RET8. This Hearing Statement has been produced in response to these concerns and has addressed Question 7.3 of the Matters, Issues and Questions identified by the Inspector.
- 3.2 We consider that the Draft Local Plan is not positively prepared, justified or consistent with national policy or the JCS. The Local Plan policies as currently drafted are potentially misleading and do not provide the necessary clarity when applied at the Development Management stage. These draft policies therefore require amendment in our view.
- 3.3 We contend that the following modifications are required in order for the Plan to be considered sound:
- The specification of the JCS Strategic Allocations which comprise Local Centres (i.e. the Innsworth Strategic Allocation - Policy A1) within the body of Policy RET1 and the associated Retail/Proposals Maps.
 - The inclusion of references to allocations that include retail, such as that of Land South of the A46, Ashchurch, within Policy RET1.
 - The explicit identification of the retail developments which benefit from planning permission at the Innsworth and Ashchurch Strategic Allocations as 'designated retail areas' (or a suitable alternative form of words) within Policy RET3.
 - Recognition that the retail development sites which benefit from planning permission at the Innsworth and Ashchurch Strategic Allocations are 'designated centres' within Policy RET4 to ensure they are not incorrectly treated as 'out of centre development'.
 - The rewording of draft Policy RET5 to clarify whether it is 'small single' or 'single or small' shop units or small groups of shops which the policy seeks to cover.
 - Recognition that there may be allocated sites which lie outside the Borough's defined settlement boundaries which should be excluded from the definition of countryside for the purposes of Policy RET8.

Appendix A

Relevant Representations to the Regulation 19 Pre-Submission Publication Local Plan 2011-2031 (November 2019)

Pre-Submission Tewkesbury Borough Plan

The Tewkesbury Borough Plan (TBP) is a plan for the area that will allocate sites for housing and employment development as well as provide planning policies to guide future development in the Borough. It provides a plan covering the period from 2011-2031. The Pre-Submission TBP is the next step in process of creating the final version of plan.

The 'Pre-Submission' TBP is the final stage of consultation before the plan is submitted to the Secretary of State for Communities and Local Government for its independent examination. Following submission, an appointed Planning Inspector will begin the examination of the plan and consider whether it is sound and legally compliant.

All comments received will be submitted to the Secretary of State and considered as part of the examination by the Planning Inspector.

Please note that copies of all comments will be made available for the public to view (including your name, but will not include any personal contact details or signatures), and therefore cannot be treated as confidential. Data will be processed and held in accordance with the General Data Protection Regulations 2018 and Data Protection Act 2018.

We are seeking your views on the policies and the proposals in the draft plan and would encourage you to respond by using the online consultation facility at: www.tewkesbury.gov.uk/boroughplan

However, you may also send completed forms to us via email and post:

- Email: localplanconsultation@tewkesbury.gov.uk
- Post: Local Plan Consultation, Tewkesbury Borough Council, Gloucester Road, Tewkesbury, GL20 5TT

The consultation opened on 4th October 2019 and you will be able to submit comments up to 5pm on Monday 18th November 2019.

The following response form has two parts:

Part A – Personal Details: need only be completed once.

Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

**Pre-Submission Tewkesbury Borough Plan
Response Form**

PART A: Personal Details – only complete once
Title: Mr
Name: Mark Buxton
Company: RPS
Email Address: mark.buxton@rpsgroup.com
Address: 20 Farringdon Street, London, EC4A 4AB

If you are acting on behalf of a client, please supply the following details:

Client Name:
Client Organisation: Robert Hitchins Group

Keeping you updated

Would you like to be notified of future progress on the Tewkesbury Borough Plan? (* we will do this via email)	
YES	

Part B – Please use a separate sheet for each representation

Name or Organisation:

To which part of the Local Plan does this representation relate?

Paragraph

Policy

RET 1

Policies Map

Do you consider the Local Plan is :

1) Legally compliant

Yes

No

2) Sound

Yes

No

3) Complies with the Duty to co-operate

Yes

No

Please tick as appropriate

Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

Draft Policy RET1 now refers to Local Centres within the Joint Core Strategy as having the same status as the Local Centres identified within Policy RET1. However, the policy does not explicitly set out which JCS allocations it considers to constitute Local Centres and therefore, the policy is not sufficiently clear. Policy RET1 should be revised to include reference to the designations from the JCS which are encompassed within the policy. For example, whilst it is understood to be the case that the Innsworth Strategic Allocation (policy A1) from the JCS is now included within the draft policy RET1, it is not explicitly referenced or included within supporting text and therefore the policy could easily be misconstrued.

As we previously set out within the representations made under the Preferred Options consultation, planning permission has been granted at Land at Innsworth Lane, Gloucester for a mixed-use development including a 'neighbourhood centre' of 11,100sqm gross internal and up to 2,500 sqm gross Class A1 retail floorspace. Whilst the planning permission (ref: APP/G1630/W/16/3164033) referred to a 'neighbourhood centre' it is clear the scale of development, including provision for a 'small convenience or discount foodstore' not

exceeding 2,000sqm gross, would be akin to a 'local centre'. Government guidance on the retail hierarchy (the now superseded PPS4) identified 'local centres' as 'a range of small shops of a local nature, serving a small catchment. Typically, local centres, might include, amongst other shops, a small supermarket, a newsagent, a sub-post office and a pharmacy. Other facilities could include a hot-food takeaway and launderette'. The centre at the Innsworth Strategic Allocation would clearly qualify as a local centre and it is therefore considered to be encompassed within the draft Policy RET1, however because there is no specific reference to the site itself, the policy is not considered sound in its current draft form. As set out in NPPF paragraph 16(d), plans should "contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals."

Similar concerns apply in respect of the approved development at land South of the A46 and North of Tirlle Brook, Ashchurch, Tewkesbury, which is included as a Strategic Allocation within Policy A5 of the JCS for approximately 14ha of 'employment generating' land. Outline planning permission (ref: 13/01003/OUT) was approved in June 2016 for a proposed garden centre, retail outlet centre and associated works. The JCS Inspector's Report dated October 2017 (para 184) specifically states '*Whilst Ashchurch is allocated for employment uses in the JCS, outline planning permission was granted in March 2016 (sic) by the Secretary of State for retail-led development. Therefore, to be effective, modifications are needed to amend the use of this allocation to "employment generating" development, which would include retail*'. The draft TBP policy RET1 should, therefore include reference to allocations that include retail, such as that of Land South of the A46, Ashchurch, as it is not currently clear whether these sites are encompassed within the current draft Policy RET1 which states "*the local centres provided within the Joint Core Strategic Allocations will also be the subject of this policy*".

Therefore, the draft policy does not adequately make provision for the full extent of JCS designations and the reference in the draft policy to 'designated retail areas' should be revisited as it is inconsistent with both the NPPF and Policy SD2 of the (now adopted) JCS. We continue to assert the need to amend the terminology used within this policy to make it sound, as we did at the Site Options and Preferred Options stages of consultation.

Finally, we again note that supporting text at paragraphs 6.1-6.3 contain some typographical errors and could benefit from rewording.

(Continue on a separate sheet /expand box if necessary)

Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or 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.

Draft policy RET 1 should be reworded and clarified in line with the concerns raised above.

(Continue on a separate sheet /expand box if necessary)

If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

<input type="checkbox"/>	No , I do not wish to participate in hearing session(s)	<input checked="" type="checkbox"/>	Yes , I wish to participate in hearing session(s)
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Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

To assist the Inspector in reaching a conclusion on the soundness or otherwise of the draft Local Plan through oral elaboration on the representations submitted.

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

Signature:



Mark Buxton on behalf of Robert Hitchins Group

Date:

18/11/2019

Pre-Submission Tewkesbury Borough Plan

The Tewkesbury Borough Plan (TBP) is a plan for the area that will allocate sites for housing and employment development as well as provide planning policies to guide future development in the Borough. It provides a plan covering the period from 2011-2031. The Pre-Submission TBP is the next step in process of creating the final version of plan.

The 'Pre-Submission' TBP is the final stage of consultation before the plan is submitted to the Secretary of State for Communities and Local Government for its independent examination. Following submission, an appointed Planning Inspector will begin the examination of the plan and consider whether it is sound and legally compliant.

All comments received will be submitted to the Secretary of State and considered as part of the examination by the Planning Inspector.

Please note that copies of all comments will be made available for the public to view (including your name, but will not include any personal contact details or signatures), and therefore cannot be treated as confidential. Data will be processed and held in accordance with the General Data Protection Regulations 2018 and Data Protection Act 2018.

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Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

**Pre-Submission Tewkesbury Borough Plan
Response Form**

PART A: Personal Details – only complete once

Title: Mr

Name: Mark Buxton

Company: RPS

Email Address: mark.buxton@rpsgroup.com

Address: 20 Farringdon Street, London, EC4A 4AB

If you are acting on behalf of a client, please supply the following details:

Client Name:

Client Organisation: Robert Hitchins Group

Keeping you updated

Would you like to be notified of future progress on the Tewkesbury Borough Plan?

(* we will do this via email)

YES

Part B – Please use a separate sheet for each representation

Name or Organisation:

To which part of the Local Plan does this representation relate?

Paragraph

Policy

RET 3

Policies Map

Do you consider the Local Plan is :

1) Legally compliant

Yes

No

2) Sound

Yes

No

3) Complies with the Duty to co-operate

Yes

No

Please tick as appropriate

Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

For the reasons set out under RET1 we consider that the retail development which benefits from planning permission at the Innsworth and Ashchurch Strategic Allocations should be explicitly identified as ‘designated retail areas’ (or a suitable alternative form of words). If the Council consider that they fall within the ‘Local Centres provided within the Strategic Allocations’ this should be made clear and the sites should be formally recognised in the policy. Without explicit reference to these JCS allocations, the draft policy is unclear and risks resulting in a situation whereby the sites are not properly regarded either as an existing centre or a planned allocation in an up-to-date plan; and therefore, are not afforded status in retail planning terms.

We repeat our objection to RET1 with regard to the reference in the draft policy to ‘designated retail areas’ for the reasons given.

(Continue on a separate sheet /expand box if necessary)

Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or 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.

Draft policy RET 3 should be reworded and clarified in line with the concerns raised above.

(Continue on a separate sheet /expand box if necessary)

If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

<input type="checkbox"/>	No , I do not wish to participate in hearing session(s)	<input checked="" type="checkbox"/>	Yes , I wish to participate in hearing session(s)
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Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

To assist the Inspector in reaching a conclusion on the soundness or otherwise of the draft Local Plan through oral elaboration on the representations submitted.

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

Signature:


Mark Buxton on behalf of Robert Hitchins Group

Date:

18/11/2019

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The following response form has two parts:

Part A – Personal Details: need only be completed once.

Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

**Pre-Submission Tewkesbury Borough Plan
Response Form**

PART A: Personal Details – only complete once
Title: Mr
Name: Mark Buxton
Company: RPS
Email Address: mark.buxton@rpsgroup.com
Address: 20 Farringdon Street, London, EC4A 4AB

If you are acting on behalf of a client, please supply the following details:

Client Name:
Client Organisation: Robert Hitchins Group

Keeping you updated

Would you like to be notified of future progress on the Tewkesbury Borough Plan? (* we will do this via email)	
YES	

Part B – Please use a separate sheet for each representation

Name or Organisation:

To which part of the Local Plan does this representation relate?

Paragraph Policy **RET 4** Policies Map

Do you consider the Local Plan is :

1) Legally compliant	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
2) Sound	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
3) Complies with the Duty to co-operate	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

Please tick as appropriate

Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

It is not clear what is meant by ‘designated centre’ for the purposes of this policy. For the reasons set out under RET1 we consider that the retail development which benefits from planning permission at the Innsworth and Ashchurch Strategic Allocations should be recognised in the Local Plan as ‘designated centres’ in order that they are not incorrectly treated as ‘out of centre development’.

We also note that the second paragraph of the draft policy contains a typographical error and would benefit from rewording.

(Continue on a separate sheet /expand box if necessary)

Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or 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.

Draft policy RET 4 should be reworded and clarified in line with the concerns raised above.

(Continue on a separate sheet /expand box if necessary)

If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

	No , I do not wish to participate in hearing session(s)	X	Yes , I wish to participate in hearing session(s)
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Signature:



Mark Buxton on behalf of Robert Hitchins Group

Date:

18/11/2019

Pre-Submission Tewkesbury Borough Plan

The Tewkesbury Borough Plan (TBP) is a plan for the area that will allocate sites for housing and employment development as well as provide planning policies to guide future development in the Borough. It provides a plan covering the period from 2011-2031. The Pre-Submission TBP is the next step in process of creating the final version of plan.

The 'Pre-Submission' TBP is the final stage of consultation before the plan is submitted to the Secretary of State for Communities and Local Government for its independent examination. Following submission, an appointed Planning Inspector will begin the examination of the plan and consider whether it is sound and legally compliant.

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Company: RPS

Email Address: mark.buxton@rpsgroup.com

Address: 20 Farringdon Street, London, EC4A 4AB

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(* we will do this via email)

YES

Part B – Please use a separate sheet for each representation

Name or Organisation:

To which part of the Local Plan does this representation relate?

Paragraph

Policy

RET 5

Policies Map

Do you consider the Local Plan is :

1) Legally compliant

Yes

No

2) Sound

Yes

No

3) Complies with the Duty to co-operate

Yes

No

Please tick as appropriate

Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

As previously asserted within representations to the Preferred Options consultation, it is considered that draft Policy RET 5 requires further clarification in terms of whether it is 'small single' or 'single or small' shop units or small groups of shops which the policy seeks to cover. The policy has not been amended to include a definition of what meant by 'small' in this context and therefore, the policy is unclear.

Furthermore, the policy cannot be considered sound in its current form. The draft policy relates to proposals for shop units to serve residential areas; however, the policy includes the requirement for sequentially preferable sites to be identified for proposals involving units over 280 sqm gross floorspace. The threshold identified within this draft policy will result in a number of sequentially preferable sites being identified in higher order centres for proposals which intend to serve new residential areas or existing settlements. In these instances, sequentially preferable sites in

different locations would not meet the location-specific need to primarily serve the local community as the policy intends.

Draft Policy RET5 is should therefore be reworded and clarified. This position remains consistent with the representations previously submitted under the Preferred Options consultation.

(Continue on a separate sheet /expand box if necessary)

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Draft policy RET 5 should be reworded and clarified in line with the concerns raised above.

(Continue on a separate sheet /expand box if necessary)

If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

<input type="checkbox"/>	No , I do not wish to participate in hearing session(s)	<input checked="" type="checkbox"/>	Yes , I wish to participate in hearing session(s)
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Date:

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YES

Part B – Please use a separate sheet for each representation

Name or Organisation:

To which part of the Local Plan does this representation relate?

Paragraph Policy **RET 8** Policies Map

Do you consider the Local Plan is :

1) Legally compliant	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
2) Sound	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
3) Complies with the Duty to co-operate	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

Please tick as appropriate

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The first paragraph of draft Policy RET 8 has been amended to include proposals for extensions to new farm shops and garden centres within the countryside, in addition to new farm shops and garden centres. However, it remains unclear in this policy how extensions/additions to existing farm shops and garden centres will be assessed in a situation where proposals are not directly related and ancillary to existing uses.

Furthermore, the third paragraph of the policy states: *“Proposals not in accordance with the provisions set out above will be considered against RET4.”* However, it is unclear how this policy will be applied in the context of proposals for extensions to existing farm shops and garden centres. This paragraph therefore, requires further clarification in order to be considered sound.

We therefore continue to assert that the policy as drafted is not ‘clearly written and unambiguous, so it is evident how a decision maker should react to development

proposals' as required by the NPPF (paragraph 16(d)) and therefore cannot be considered to be sound.

We consider that the policy/text should recognise that there may be allocated sites which lie outside the Borough's defined settlement boundaries which should be excluded from the definition of countryside for the purposes of this policy.

We further consider the approach to garden centres and farm shops is potentially more onerous than for other out of centre retail developments. The policy as drafted states that proposals which are not in accordance with the policy will be considered under policy RET4, but then goes on to state that in all cases other controls will be applied including outdoor sales/display areas and the ranges of goods. Given those garden centres/farm shops which are not directly related and ancillary to existing agricultural/horticultural business would be required to satisfy the retail impact and sequential tests under Policy RET4, such additional controls are considered to be unnecessary.

It is also unclear how a café can be considered to be ancillary in nature to the sale of plants, horticultural goods or food products grown on the property. Therefore, we consider that the policy should simply state its approach to farm shops/garden centres which are directly related and ancillary to agricultural/horticultural businesses in the countryside, and clarify in the supporting text that all other types of retail not in an existing centre or in accordance with the development plan will be subject to Policy RET4.

(Continue on a separate sheet /expand box if necessary)

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Draft policy RET 8 should be reworded and clarified in line with the concerns raised above.

(Continue on a separate sheet /expand box if necessary)

If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

	No , I do not wish to participate in hearing session(s)	X	Yes , I wish to participate in hearing session(s)
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Signature:


Mark Buxton on behalf of Robert Hitchins Group

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