



The Plan for Stafford Borough Part 2

Examination Statement

– Issue 1-

Legal Requirements Scope of part 2 of the Local Plan and Duty to Co-operate

June 2016

Issue1: LEGAL REQUIREMENTS & PROCEDURAL MATTERS

1.1 *Legal Requirements: Does the Local Plan Part 2 (PSB2) meet all its legal requirements (e.g. in relation to the Local Development Scheme; Statement of Community Involvement; and Local Development Regulations 2012)?*

Local Development Scheme

1.1.1. Stafford Borough Council has had full regard to the Local Development Scheme (LDS) in preparing the Plan for Stafford Borough. Further details are set out in the Stafford Borough Legal Compliance Checklist (P2- B3). The Stafford Borough Local Development Scheme in April 2016 (P2-E10) confirms that publication of the Plan for Stafford Borough Part 2 took place in December 2015, with submission taking place in April 2016. The Plan for Stafford Borough Part 2 is consistent with the description of its role and content in the LDS. Where policies are no longer proposed as part of the Plan for Stafford Borough Part 2, there is justification provided within the document. These areas will also be addressed as part of the Examination process, namely: primary and secondary retail frontages and environmental policies.

Statement of Community Involvement

1.1.2. Full details of how the Plan for Stafford Borough Part 2 (P2- A1) (hereafter Part 2 (P2- A1)) has been prepared in accordance with the Statement of Community Involvement (P2- A21), adopted in February 2016.

1.1.3. The Statement of Community Involvement (P2-A21) sets out key standards which the Council has used when involving the community in preparing Part 2 (P2-A1). In addition to meeting the requirements of Regulations, the Statement of Community Involvement sets out how the Council should involve consultation bodies, stakeholders and the community in the preparation of the Plan. This has been complied with throughout the Plan's preparation.

1.1.4. The Submission Consultation Statement - (Reg 22 (1) (c)) 2016 (P2-A20) sets out for each stage of the preparation of Part 2 (P2-A1), which organisations were invited to make representations and how, and provides a summary of the main issues raised and how these have been taken into account, demonstrating compliance with the Statement of Community Involvement (P2- A21). The Submission Consultation Statement – (Reg 22 (1) (c)) 2016 (P2-A20) provides summaries of the consultation

undertaken and responses received, together with an analysis of representations and implications for the next stages of plan making for each stage, as well as individual notifications using the Council's on-line consultation mechanism, press releases, public notices and guidance information relating to Part 2 (P2- A1). The Plan for Stafford Borough Part 2 Publication Schedule of Representations – Summary (P2- A22) and The Plan for Stafford Borough Part 2 Proposals Schedule of Representations – Summary (P2- G22) provides more details of all responses and representations received for the whole process and how the Council has responded.

- 1.1.5. The Council has considered all the responses and representations received through the consultation plan-making stages of the Plan. For the Publication stage the representations are documented in The Plan for Stafford Borough Part 2 Publication Schedule of Representations – Summary (P2- A22), the Schedule of Additional (Minor) Modifications (P2- A26) and the Submission Consultation Statement – (Reg 22 (1) (c)) 2016 (P2-A21).

Local Development Regulations

- 1.1.6. Part 2 (P2-A1) has had regard to and been prepared in accordance with the current Local Development Regulations with further details set out in the Stafford Borough Legal Compliance Checklist (P2-B3). With regard to Regulation 19 of the Town and Country Planning (Local Development) (England) (Amendment) Regulations 2012, Part2 (P2-A1), the Policies Maps (P2 A2 to A18), the Revised Sustainability Appraisal Report (P2-A19) and the Publication Consultation Statement (now part of the Submission Consultation Statement P2-A20), together with supporting evidence based documents were:

- made available for inspection at Stafford Borough Council's Civic offices and at public libraries;
- Published on the web-site, together with a statement that the documents were available for inspection and the places and times for inspection.

- 1.1.7. In addition a letter was sent out to specific and general consultation bodies which included the Statement of Representations procedure, together with the Statement of Fact raising awareness of the period for seeking representations on soundness and legal compliance (P2-A20). The Statement of Representations procedure and Statement of Fact was also posted on the Council's website, stating that the period for representations started on 30th November 2015 and ended at 12 noon on 25th January 2016.

1.1.8. Part 2 (P2-A1) was submitted under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012, in accordance with that Regulation. Part 2 (P2-A1), the Submission Policies Maps (A2 – A18), the representations received under Regulation 20 (P2-A24) and the Summary of Representations (P2-A22) together with one copy of late representations received (P2-A23), the Regulation 22 (c) Consultation Statement with its Appendices (P2-A20), the adopted Statement of Community Involvement (P2- A21), the Revised Sustainability Appraisal Report (P2-A20), together with the evidence base and supporting documents (P2-A1 to P2- J22) were submitted to the Secretary of State. These were sent in both paper form and electronically.

1.1.9. Following submission of the documentation to the Secretary of State, the Council:

- Sent out the Notice of Submission (P2-I1) and letters (P2 – I2-I6) raising awareness of the Submission to the general and specific consultation bodies that the Plan for Stafford Borough had been submitted and of the places and times where relevant documents were available for inspection;
- Gave notice to those who, at the Publication stage of the Plan, had requested to be notified of its Submission;
- Made the documents set out above in paragraph 1.1.8 available for inspection at Stafford Borough Council's Civic offices and on the Council's web-site in accordance with Regulation 35.

1.2 Scope of the Local Plan Part 2 (PSB2):

(i) Is the scope of PSB2 in line with the role for the Plan as set out in paragraph 1.2 [second bullet point] of the submitted Plan?

1.2.1 The Plan for Stafford Borough adopted in 2014 (P2-C1) establishes that 10,000 houses should be provided over the Plan period. It was originally intended that Part 2 would be a Site Allocations Development Plan Document. Paragraph 57 of the Inspector's Report into Part 1 (P2- L31) confirms that all settlement boundaries for Part 1 should be omitted, and that these should be defined in the subsequent Site Allocation Document/ Neighbourhood Plans.

1.2.2 Part 1 allocates Strategic Development Locations (SDLs) for both housing and employment at Stafford and Stone (approximately 7,400 new homes and 79 ha of employment land). Furthermore, since the adoption of Part 1, parts of the SDLs and other sites have since been built out or have secured planning permission and are therefore regarded as commitments.

As illustrated in Table 2 of the Part 2 Publication (Submission) document (P2-A1), at least 10,800 houses are at the date of publication, even at that early stage in the Plan period, either completed, committed through planning permissions, or allocated through the SDLs, indicating that significantly more houses are likely to be delivered than the target figure of 10,000 houses over the Plan period. Whilst the figure of 10,000 units does not represent a ceiling or a maximum, it establishes the context against which necessary infrastructure can be planned. The latest position (which now indicates 11,107 houses as at 31st March 2016 (P2-L21)) is considered in Issue Paper 4.

1.2.3 Taking the above into consideration, it is not necessary for Part 2 of the Local Plan to make specific allocations for additional sites. Nevertheless, Part 2 of the Plan does have a key role in helping to deliver the Plan's sustainable development strategy. Adopted Part 1 policies Spatial Principle 3 and Spatial Principle 4 establish the Sustainable Settlement Hierarchy and the percentage of growth distribution across Stafford, Stone, the Key Service Villages and The Rest of Borough Area (P2-C1). To support this hierarchy, and to ensure the level of growth remain consistent with the proportions of Spatial Principle 4, settlement boundaries have been established in Part 2 of the Plan for each settlement in the hierarchy, based upon Spatial Principle 7 of the adopted Plan (P2-C1).

1.2.4 Given the above, the document has been renamed to a more appropriate title of the Plan for Stafford Borough: Part 2. It is still consistent with the Inspector's Report on Part 1, as it defines the settlement boundaries as well as considers the Recognised Industrial Estates, Retail frontages and the need for Gypsy and Traveller provision.

(ii) ***Does the scope of the PSB2 accord with the recent Court of Appeal (COA) Judgment of Oxted Residential Ltd v Tandridge District Council (EWCA Civ 414; 29 April 2016)? This COA Judgment is in the Examination Library, and the paragraphs that I would particularly like to draw attention to are: 28, 31, 32 and 38. The third sentence of paragraph 38 states: An Inspector conducting an examination must establish the true scope of the development plan document he is dealing with, and what it is setting out to do. Only then will he be able to properly judge "whether or not, within the scope and within what it has set out to do", it is "sound" (Section 20(5)(b) [of the 2004 Act]).***

1.2.5 In *Oxted Residential Limited v Tandridge District Council* [2016] (P2- K3) the Court of Appeal has had to answer the question whether it was lawful

for a Council to adopt a development plan document and a Community Infrastructure Levy charging schedule to support a core strategy adopted under national planning policy for housing supply that had been superseded by the NPPF in March 2012. They decided it was lawful because the function of the DPD in question was to set out development management policies and that did not require an objective assessment of need for housing. The adoption of the DPD did not require an examination of whether the individual development management policies are relevant policies for the supply of housing under paragraph 49 of the NPPF: that was a task for consideration of individual applications for planning permission for housing.

1.2.6 The Plan for Stafford Borough adopted in 2014 (P2-C1) (herein referred to as Part 1), states that 10,000 houses must be delivered over the Plan period up to 2031. The objectively assessed housing need (OAN) and the Borough's 5 year housing supply calculation (5YHLSC) were key considerations in the Part 1 Examination.

1.2.7 As noted in the Court of Appeal Judgement (P2- K3) and a paragraph 31, a development plan may comprise several development plan document. This is the case with the Plan for Stafford Borough which comprises three parts, namely: Part 1 (P2-C1); Part 2 (P2-A1) and the policies maps. These must be read together. This is set out very clearly in paragraph 1.2 of Part 2 (P2-A1). Furthermore Part 1 was adopted following the introduction of the National Planning Policy Framework (P2-F1).

1.2.8 The Council is therefore of the opinion that Part 2 (P2-A1) does accord with the Court of Appeal judgement (P2-K3), and supports the need for the Inspector to concentrate on the scope of Part 2 only (paragraph 38 of the Judgement), as OAN and 5YHLSC, has already been addressed in Part 1 (P2-C1).

(iii) Are there any valid Part 2 issues which PSB2 has failed to address?

1.2.9 Part 2 (P2-A1) has been prepared in accordance with the adopted Local Development Scheme (P2- E10). Part 1 (P2-C1) sets strategic policies for the Borough, together with the development management policies as well as the main allocations for development. The Council is proposing to adopt four Supplementary Planning Documents to provide further guidance on specific matters linked to adopted policies with Part 1 (P2-C1). These are identified in the Local Development Scheme namely on Design, Shopfronts; Re-use of Rural Buildings and Open Space and Recreation. These are presently being drafted.

1.3 *Duty to Cooperate (DTC): Is the DTC, which covers strategic matters, applicable to PSB2, and if so, has the Council adequately discharged the DTC in preparing the Plan?*

- 1.3.1 The Borough Council worked closely with key stakeholders, service providers and statutory agencies on Part 1 (P2-C1), which identified the development strategy, sustainable settlement hierarchy and allocated significant development for Stafford and Stone through the Strategic Development Locations. As Part 2 (P2-A1) establishes the settlement boundaries for Stafford, Stone and the Key Service Villages, it is considered that there are no 'strategic matters' included in this element of the Plan. Nonetheless, letters were sent out to all Duty to Co-operate organisations on 22 September 2015. Appendix 2 of The Regulation 22 (c) Consultation Statement (P2-A20) shows that seven responses were received, all of whom have confirmed that there are no Duty to Co-operate matters of importance to raise.
- 1.3.2 The Borough Council has discharged its Duty to Co-operate by engaging with all neighbouring planning authorities and other prescribed bodies. It has been the consensus that there are no cross boundary issues.