

## STATEMENT

Warrington Local Plan Examination: Ref 1434

6 and 7 September 2022

Matters 2 / 3

Satnam Millennium Limited

Brooklyn Limited

1. Satnam and Brooklyn rely upon, and do not repeat, the submissions made on behalf of the Home Builders Consortium of which they are a member.

### The Plan Period

2. The proposed period of the Updated Proposed Submission Local Plan is 2021 to 2038. The anticipated adoption date of the plan is mid-2023 (paragraph 1.3.3 of SP1).
3. NPPF paragraph 22 requires Strategic Policies to look ahead over a minimum 15-year period from adoption of the plan.
4. The Council, in accordance with the guidance in paragraph 21 of the NPPF, makes explicit which policies are strategic policies. Those policies include DEV1, which sets out the housing requirement for the period 2021-2038.
5. If the plan were to be adopted in mid-2023, it would not look ahead for a minimum period of 15 years.
6. The plan period should be extended, and further sites allocated for development to meet housing and other needs over the extended period.

### Question 6

7. The overall Spatial Strategy in the Local Plan appears to be based on a pre-selected number of sites identified by the Council at an early stage, that have not been thoroughly assessed as a complete development package. The Submitted Local Plan radically amended some of these sites (southwest extension removed and southeast extension reduced in scale for instance) and introduced untested new sites (the main one being Fiddlers Ferry), without adequate process

and clarity. For the sake of proper order and process the submitted strategy should have been reassessed in a Regulation 18 plan and not submitted in haste. In our view the Submitted Plan does not now conform to the selected approach of “*the majority of the green belt release adjacent to the built-up area with incremental growth in outlying settlements.*” Fiddlers Ferry is, in effect, a new settlement within Warrington Borough, or an extension to neighbouring Widnes.

8. The overall impact of the Councils approach is to now have a distribution strategy that does not address the development needs of the Borough in an appropriate spatial or demographic way. Parts of the Borough, including both the main urban area and the outlying settlements, are not as adequately provided for with new opportunities for housing and associated opportunities as they could or should be. One such settlement is Burtonwood.
9. Burtonwood is a sustainable settlement with a good range of facilities and services. It lies within walking and cycling distance of Omega and Gemini, both large areas of employment. In the earlier drafts of the plan the acceptability of Burtonwood to accommodate new housing was set out in recognition of the role Burtonwood has in providing for the housing needs of the Borough and its ability to meet its own housing and development needs locally (Policy OS1 in PVL1). Allocation OS1 has been omitted in the Submitted Local Plan, with no assessment of how the decision not to expand the settlement could affect Burtonwood.
10. It is clear from our discussions with the Council (pre-app process) and the Parish Council regarding the Brooklyn land at Clay Lane Burtonwood that there is scope in principle to expand the village to provide services and housing badly needed in Burtonwood. There are sites at the village that could accommodate that growth. Yet these benefits have not been assessed in the decision to allocate no growth within the plan period at this sustainable settlement.
11. The decision to remove the earlier allocation at Burtonwood was purportedly made on highways grounds (See Cabinet Report 13 September 2021), associated with the impact of traffic from the neighbouring Borough (St Helens, the Bold development). Yet no extensive traffic modelling has been undertaken to establish this, nor has it been explored to establish if the Bold development can alleviate any impacts it may create in Burtonwood. No objections were made by Warrington Borough Council to the Bold allocation, nor were there any objections regarding Burtonwood expansion submitted by St Helens Borough Council to the earlier versions of this Local Plan. It appears the decision to remove any chance of growth from Burtonwood was taken on the barest of incomplete information.
12. As such the strategy decision to prevent expansion at Burtonwood is not Positive, nor Justified, is not effective in accommodating the development needs of Burtonwood and is not consistent with National Policy as it does not seek to achieve sustainable development in the Borough.

- 13 The means to remedy this failing, and to provide the additional development opportunities Warrington needs to meet its housing needs, is to seek further sites for development, including at Burtonwood. Such a process can be used to re-visit the findings of the Green Belt Assessment and SEA so that all negative and positive contributions from the sites assessed are considered.

#### **Question 7**

- 14 There appears to be no recognised basis for the split of the green belt land releases between the built-up area and the outlying settlements, save for the broad approach that circa 10% growth in outlying settlements was used as an approximate capacity in those settlements at the start of the local plan process.
- 15 This approach does not rely on the ability of the outlying settlements to absorb growth, require growth, or to have sites that are suitable for development. It is merely a mathematical approach to distribute growth across the outlying settlements of the Borough.
- 16 Since that time however, the proposed strategic allocation of Fiddlers Ferry has been introduced into the plan, moving the focus away from the built-up area and to an isolated allocation on the edge of the neighbouring town. Thus, these houses do not easily serve the housing needs of those people who live in and wish to remain in existing Warrington Borough communities.
- 17 In our view there is no justification for the proposed spatial distribution that withstands scrutiny, and a revised distribution of sites across the Borough, that reflects and responds to the housing and other needs of the various areas of the Borough should be set out by the Council.

#### **The Duty to Co-operate**

- 18 In the Representation Form submitted by Satnam Planning Services Ltd on behalf of Satnam Millennium Limited and Brooklyn Limited (*“the Representors”*) the Representors indicated that they did not consider the Draft Local Plan to be compliant with the duty to co-operate. That indication was given when completing Part B of the form in relation to:
- a. The plan as a whole.
  - b. GB1: Warrington’s Green Belt
  - c. DEV1: Housing Delivery
- 19 A person who makes representations seeking to change a development plan document must (if s/he so requests) be given the opportunity to appear before and be heard by the person carrying out the examination<sup>1</sup>. The Representors have requested that they be given the opportunity to appear before and be heard by the inspectors. It would be perverse to deny the Representors

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<sup>1</sup> Section 20(6) PCPA 2004

an opportunity to be heard on this issue when their position, that the duty to co-operate has not been complied with, was set out clearly in the form provided by the Council.

- 20 In any event, the inspector has an obligation to consider whether the duty to co-operate is complied with whether or not the matter is raised in representations (Section 20(5)(c) Planning and Compulsory Purchase Act 2004 ("*PCPA 2004*").
- 21 Satnam is a member of the consortium of leading developers and housebuilders. The Consortium has taken a duty to co-operate point in its representations<sup>2</sup>.
- 22 The basis for the point taken by the Consortium is identified in Section 4 of Appendix 3 to the Warrington Local Plan Issues Report prepared by Lichfields (November 2021) ("*the November 2021 Lichfields Report*").
- 23 The duty under section 33A(2)(a) PCPA 2004 is to engage, constructively, actively, and on an ongoing basis in any process by means of which the preparation of a development plan is undertaken, so far as relating to a strategic matter.
- 24 The duty applies to plan preparation. Preparation ends on submission<sup>3</sup>.
- 25 The duty applies in relation to each and every strategic matter individually<sup>4</sup>.
- 26 The allocation of Fiddlers Ferry<sup>5</sup> and Green Belt matters<sup>6</sup> are identified as strategic matters.
- 27 The engagement required by subsection (2)(a) requires (inter alia) a LPA to consider whether to agree to prepare joint local development documents<sup>7</sup>.
- 28 Although 'considering whether to agree under section 28 to prepare joint local development documents' allows a LPA a substantial margin of appreciation<sup>8</sup>, a LPA must consider the issue in relation to each and every strategic matter.

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<sup>2</sup>Representation 0410 Item 6

<sup>3</sup> **Samuel Smith v. Selby DC** [2015] EWCA Civ 1107 at paragraphs 28-31

<sup>4</sup> **Sevenoaks DC v. Secretary of State** [2020] EWHC 3054 (Admin) at paragraph 50

<sup>5</sup> SP10 paragraphs 4.27-4.31

<sup>6</sup> SP10 paragraphs 4.15-4.18

<sup>7</sup> Section 33A(6)(b) PCPA 2004

<sup>8</sup> **Zurich Assurance Ltd v. Winchester CC** [2014] EWHC 758 (Admin) at paragraph 111

**Consideration of whether to agree to prepare joint local development documents**

29 The March 2019 Statement of Common Ground records that WBC are not preparing joint local plans<sup>9</sup>. At the time that statement was prepared Fiddlers Ferry was not identified as a site allocation or strategic matter<sup>10</sup>, and therefore the question of whether, in relation to that strategic matter, to prepare a joint plan was not considered at that stage.

30 Satnam are not aware of any evidence to demonstrate that the Council considered whether to agree to prepare a joint local development document with Halton BC in relation to Fiddlers Ferry and/or Green Belt release at any stage in the process.

31 Unless the Council are able to point to such evidence, it is clear that the Council have failed to comply with the duty imposed upon them by section 33A(2)(a) and (6) PCPA 2004.

**To engage constructively, actively and an ongoing basis**

32 In addition, the Council have failed to engage, constructively, actively and on an ongoing basis in discussions with Halton Borough Council on the decision to allocate the Fiddlers Ferry site for development and to release land from the Green Belt.

33 In the Development Options and Site Assessment Technical Report (September 2021)<sup>11</sup> the Council recognised that they were under an obligation to continue to work with Halton BC under the duty to co-operate.

34 The state of the engagement with Halton BC is set out in the September 2021 Statement of Common Ground as quoted at paragraphs 4.3 and 4.4 of Appendix 3 to the November 2021 Lichfields Report.

35 In the April 2022 Statement of Common Ground<sup>12</sup> the same wording as in the September 2021 Statement of Common Ground<sup>13</sup> is repeated. It is clear that engagement with Halton BC on the measures necessary to mitigate the impact of development at Fiddlers Ferry has not been active, or ongoing in the period between September 2021 and April 2022, despite the fact that the need for further engagement is recognised.

36 Similarly, in relation to the Green Belt between Warrington and Widnes, the wording from the September 2021 Statement of Common Ground (4.18) appears again at paragraph 4.18 (and paragraph 6 of Appendix 2) of the April 2022 Statement of Common Ground (SP10). It is clear that engagement with Halton BC on Green Belt issues has not been active or ongoing.

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<sup>9</sup> SP7e paragraph 2.2

<sup>10</sup> See the site allocations in the March 2019 proposed submission plan PVL1

<sup>11</sup> Options Doc 1 paragraph 4.54

<sup>12</sup> SP10 paragraph 4.31

<sup>13</sup> At paragraphs 4.31

**Conclusion**

- 37 It is clear that there has been a failure to comply with the duty to co-operate.
- 38 The Representors request that the inspector make an early finding on this issue. If the Representors' submissions are upheld there will be no need to proceed with the local plan examination.
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