

South Staffordshire Local Plan Examination

Response to Matter 2: Duty to Co-operate

St Philips (Wedges Mills)

10 April 2025

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1.0 Introduction

- 1.1 This statement to Matter 2 (Duty to Co-operate) of the examination of the South Staffordshire Local Plan Review (“the LPR”) is submitted by Lichfields on behalf of St Philips in relation to their land interests at Wolverhampton Road, Wedges Mills Cannock (“the Site”).
- 1.2 Separate representations have been submitted in respect of the following Matters:
- Matter 3 – Vision and Strategic Objectives;
 - Matter 4 – Development Needs and Requirement;
 - Matter 5 – Spatial Strategy; and
 - Matter 6 – Green Belt.
- 1.3 It follows St Philips’ representations to the LPR Publication Consultation (Regulation 19) (April-May 2024) in respect of their land interests at Wolverhampton Road, Wedges Mills Cannock. For reference, the representations comprised those identified under the following Representation References: AGT24-026-02-08, AGT24-026-02-09, and AGT24-026-02-10.
- 1.4 The National Planning Policy Framework [NPPF] outlines that during the examination process, a Local Plan must demonstrate that it has been positively prepared, is justified, is effective and is consistent with national policy. Outlined below are responses to a select number of the Inspector’s questions which set out St Philips’ view on the soundness of the LPR.
- 1.5 The Plan was submitted on the 11th of December 2024 and thus the December 2023 NPPF is wholly applicable for the purposes of assessing this plan, in accordance with paragraphs 234 to 236 of the revised December 2024 NPPF. Reference is therefore made to the December 2023 NPPF in response to the Inspector’s questions, unless otherwise stated.
- 1.6 This Matter Statement has been prepared in line with the Guidance Note (SST/ED8) for the Examination.

2.0 Matter 2: Duty to Co-operate

Issue 1

Whether the Council has complied with the Duty to Cooperate in the preparation of the Plan.

Q. 1. Have all the genuinely strategic matters requiring cross boundary co-operation been identified??

- 2.1 Yes, in part. St Philips considers that the ‘Duty to Cooperate Topic Paper Addendum (2024)’ (DC1) sets the strategic matters out in detail, alongside the suite of wider supporting Duty to Cooperate [DtC] and Statements of Common Ground [SoCG] evidence (DC1-DC44).
- 2.2 However, St Philips strongly contends that South Staffordshire Council (“the Council”) has not had proper regard to the significance and acuteness of the unmet housing needs arising from the Greater Birmingham and Black Country Housing Market Area [GBBCHMA].¹ In principle, St Philips welcomes the Council’s acknowledgment of the unmet needs of the GBBCHMA as a strategic matter requiring cross-boundary co-operation, alongside their commitment to addressing part of the GBBCHMA’s unmet needs through the LPR. This is because it remains entirely appropriate and in accordance with the NPPF (Paras 11b and 35c) for the Council to make provision for these strategic and cross-boundary needs to be addressed within the LPR as a part of its DtC.
- 2.3 However, notwithstanding this, St Philips strongly contends that the Council has wilfully ignored the acuteness of these needs, and deferred, rather than dealt with, this issue, contrary to paragraph 35c of the NPPF. This is evident in the Council markedly reducing its proposed contribution towards the unmet housing needs of the GBBCHMA between the LPR and previous LPR Regulation 19 consultation undertaken in December 2022. A marked reduction from 4,000 dwellings to 640 dwellings. The Council suggests – albeit not explicitly – that this is because the quantum of unmet needs has not been evidenced and therefore this uncertainty justifies deferring this matter until a future LPR; however, as set out further in this Statement and in St Philips’ response to Matter 4, this is not the case.

Q. 3. Has any neighbouring authority or prescribed body indicated that the duty to cooperate has not been complied with in relation to any strategic matter? If so, what was the Council’s response?

- 2.4 Yes; albeit not explicitly. As set out in the ‘Duty to Cooperate Topic Paper Addendum (2024)’ [DtCTPA] (DC1), several authorities within the GBBCHMA – and in particular some of the Black Country Authorities [BCA] – have expressed concerns in relation to the Council’s proposed approach to addressing the unmet needs of the GBBCHMA in response to the LPR Regulation 19 consultation in 2024. By way of example:
- 1 **Birmingham City Council:** *“welcomes and supports the contribution made by land allocations in South Staffs which contribute towards housing and employment land*

¹ Comprising 14 constituent authorities, including: Birmingham, Bromsgrove, Cannock Chase, Dudley, Lichfield, North Warwickshire, Redditch, Sandwell, Stratford-on-Avon, Tamworth, Walsall and Wolverhampton

shortfalls being experienced in the West Midlands conurbation. However, they are disappointed that the levels of housing contributions have been significantly reduced from the 4,000 dwellings previously proposed.” (Emphasis Added);

- 2 **Dudley Metropolitan Borough Council:** *“consider that the identified 10% plan flexibility should also be contribution to the unmet needs of the Greater Birmingham and Black Country Housing Market Area (GBBCHMA).”;*
- 3 **Lichfield District Council:** *“welcomes the contribution of 640 dwellings towards unmet need within the wider HMA, however the reduced level of contribution will need to be robustly evidenced and justified in the context of the emerging unmet housing needs within the GBBCHMA” (Emphasis Added); and*
- 4 **Walsall Metropolitan Borough Council:** *“consider that the proposal in the plan to reduce the number of homes proposed to contribute to meeting the needs of neighbouring authorities from 4,000 to 640 does not align well with the test of soundness requiring plans to be positively prepared... [and] the December 2023 NPPF revision does not alter this need or the supply shortfall. In Walsall MBC’s view, the need for changes to Green Belt boundaries should be established by the evidence of housing need at the strategic level, and there has been no demonstrable change in the evidence to justify exceptional circumstances that might support detailed amendments to boundaries in relation to individual sites.” (Emphasis Added)*

2.5 The DtC is both a legal and soundness test, under Section 33A of the Planning and Compulsory Purchase Act 2004 and the NPPF. For the avoidance of doubt, St Philips considers that the Council has demonstrated that it has met the legal test in relation to the DtC. In this context, on the face of it the Council has comprehensively detailed strategic matters requiring cross-boundary co-operation, how the cooperation with adjoining authorities has been carried out and how this has informed the Council’s approach.

2.6 However, as noted above, the issue of DtC is also an issue which goes to the soundness of a plan. Despite meeting the legal requirement, St Philips has significant concerns in relation to the outcomes of this ‘cooperation’. This, in St Philips’ view, has led to the submission of a strategy which seeks to actively defer meeting the unmet housing needs of the GBBCHMA, and as a result, is not sound. In essence, St Philips considers that this does not amount to a legal deficiency in relation to the DtC but is a matter of soundness.

Q. 4. Who has the Council engaged with in terms of overall housing provision and what form has this taken?

2.7 In respect of quantifying the unmet needs of the GBBCHMA, the Council has set out in the DtCTPA that it is continuing to work with the GBBCHMA Development Needs Group to monitor the shortfall and is in the process of commissioning an update to the Strategic Growth Study (2018) (EB28) [SGS]. However, the Council’s LPR and supporting evidence infer that the quantum of unmet needs arising from the GBBCHMA has not been evidenced, as the SGS is now markedly out-of-date, and therefore this uncertainty justifies deferring this matter until a future LPR and/or SGS update.

1.1 However, firstly, it has always been the case that the findings of the SGS carried little to no weight, and it was not a live document reflecting the iterative nature of changes in national planning policy nor the advancement of Local Plans within the GBBCHMA quantifying

updated levels of unmet housing need. Secondly, the Council's own 'Green Belt Exceptional Circumstances Topic Paper (April 2024)' (EB6) ("the GBES Topic Paper") estimated the GBBCHMA's unmet housing needs to be in the order of c.31,000 dwellings up to 2042, as a minimum (DC1). Finally, more recent evidence from Lichfields' analysis of the current position arising from the BCAs advancing their Local Plans, suggests that this this unmet housing need would be markedly higher, as a result of the publication of the revised Standard Method [SM] and NPPF (2024).

- 2.8 By way of example – and set out in more detail in St Philips' response to Matter 4 – the GBBCHMA-wide shortfall would actually now equate to c.42,800 homes up to 2042, which increase further to 56,300 homes by 2042 once the BCAs authorities transition to the new plan-making system. This is significantly more than the Council's assumption, and St Philips considers that the current available evidence indicates that there is an unmet housing need of between c.42,800-56,300 dwellings up to 2042.
- 2.9 Even if the BCAs are able to make provision for further land within their Green Belt, the extent of the unmet housing needs arising up to 2042 is likely to remain acute and severe and would suggest an unmet need contribution within the LPR in excess of the nominal 640 dwellings proposed.
- 2.10 In St Philips' view, the scale of the GBBCHMA's unmet needs is clear and unavoidable and has been long-established in principle to be more than 30,000 dwellings. Despite this, fundamentally, the Council's evidence does not appear to have had regard to the latest position unmet housing need figure within the DtCTPA from the BCAs, or wider supporting SoCGs, that have informed its approach to addressing the unmet needs of the GBBCHMA. Again, St Philips considers that this does not amount to a legal deficiency in relation to the DtC but is a matter of soundness.

Q. 5. In terms of migration, commuting, travel to work and housing markets:

a. What are the inter-relationships with neighbouring authority areas?

b. How have these been taken into account in preparing the Local Plan?

- 2.11 St Philips strongly contends that the Council's approach to deriving its unmet housing needs contribution towards the GBBCHMA is not underpinned by relevant and up-to-date evidence (Para 31), nor is it 'justified' (Para 35b), nor consistent with national policy (Para 35d).
- 2.12 St Philips acknowledge that there is not a single, or definitive, approach to determining the proportion of unmet needs that any single Council should accommodate set out in the NPPF or Planning Practice Guidance [PPG]. This is despite a clear instruction within the NPPF that LPAs should accommodate unmet needs from neighbouring authorities where they are identified. However, it is clear that that Local Plans should be underpinned by proportionate, relevant and up-to-date evidence.
- 2.13 It is self-evident that a simplistic 'fair share' approach to distributing these unmet needs is impractical, as many of the GBBCHMA authorities face significant constraints, such as NPPF Footnote 7 restrictions, making them nearly as limited as the source of unmet needs.

Such an approach would also lack evidential support and is unlikely to withstand scrutiny at Examination in Public [EiP].

- 2.14 To this end, St Philips have submitted a suite of evidence, prepared by Lichfields, to the Council's previous Regulation 18 and 19 consultations, predominantly in response to the Council's proposed approach of deferring to the contribution 'established' in the SGS, which was not tested through EiP. This evidence comprised a functional relationship approach – set out in detail in St Philips response to Matter 4 – which sought to draw on an Inspector-endorsed approach to distributing unmet housing needs that utilises key migration, commuting, travel to work and housing market patterns to establish a functional relationship and the quantum of unmet need contributions required by each authority within the GBBCHMA.
- 2.15 Crucially, for the BCAs, this analysis demonstrates that, whilst Birmingham is the primary out-migration destination for a majority of the people leaving the BCAs, the preference for households migrating to more rural authorities is stronger towards South Staffordshire in the first instance, than Shropshire and Cannock Chase. This is largely as one might expect given the close proximity of the Council to the BCAs. In terms of commuting links (i.e. travel to work), these broadly correlate with the above-mentioned migration patterns, with a quarter of the workforce inflow into the BCAs from within the HMA arising from the Council. When taken together (i.e. the baseline degree of housing market linkage an area has with both the BCAs), Lichfields analysis suggests a socio-economic linkage in the order of 20%. Following Lichfields subsequent stages in their analysis, Lichfields' analysis suggested that the Council should be making provision for at least 25% of the GBBCHMA's unmet needs, as a starting point – which was in excess of the previously proposed 4,000 dwelling contribution.
- 2.16 Notably, Lichfields' analysis was previously considered through Residential Growth Option (F) of the 'Sustainability Appraisal of the South Staffordshire Local Plan Review (2019-2039): Regulation 19 SA Report (October 2022)' ("the 2022 SA") (EB3-EB3a), as a further reasonable alternative, as required by the PPG² and Friends of the Earth High Court judgment.³ However, this approach has subsequently been disregarded by the Council. In 2022, St Philips welcomed the Council's pragmatism in reflecting on this analysis – albeit, disagreed with the 2022 SA's conclusion on this option. Importantly, this evidence nevertheless provided the Council with an up-to-date assessment, which considered key socio-demographic trends on which the LPR's proposed contribution could be underpinned.
- 2.17 Despite the above, the Council's proposed contribution is in effect an arbitrary residual – and token – figure derived from the Council's contrived revised spatial strategy approach, adopted primarily to capitalise on the change in circumstances arising from the December 2023 NPPF's revised policy position on Green Belt release. As a result, the Council has proposed a nominal 'contribution' underpinned by a contrived spatial strategy which runs contrary to the Council's previous conclusion on sustainable development across the plan period (i.e. omitting a suite of sustainable Green Belt sites). As such, critically, St Philips consider that the Council has incorrectly not had any regard to migration, commuting,

² PPG IDs: 11-017 and 11-018

³ Paragraph 88 of R (Friends of the Earth England, Wales and Northern Ireland Ltd) v The Welsh Ministers [2015] EWHC 776 (Admin)

travel to work and housing market trends within the LPR, nor in the derivation of its proposed contribution towards the GBBCHMA's unmet housing needs within the LPR's supporting evidence base.

Q. 8. Are the co-operation activities and outcomes sufficiently evidenced? Have all relevant signed and dated Statements of Common Ground been provided, consistent with the requirements of the National Planning Policy Framework and the associated Planning Practice Guidance? If not, why?

2.18 No. It remains unclear to St Philips how, despite engaging extensively with the BCA's under the DtC, the Council can evidence and justify its nominal and arbitrary contribution (i.e. a key outcome of a strategic matter) until such time as an update to the SGS has been prepared. Whilst it is a DtC, and not a 'Duty to Agree', it is plain to see that many authorities within the GBBCHMA are not satisfied with the Council's approach to this important cross-boundary matter, ultimately questioning the soundness of the Council's approach.

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