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Dear Louise

## **South Staffordshire LP Examination - Duty to Cooperate Consultation**

We write on behalf of our client, St Philips Land Ltd ('St Philips') (Representation References: AGT24-026-02-08, AGT24-026-02-09, and AGT24-026-02-10), in relation to their land interests at Wolverhampton Road, Wedges Mills Cannock ('the Site'), and in respect of the 'Duty to Co-operate Consultation' as part of the Examination of the South Staffordshire Local Plan Review ('LPR').

Following the hearing sessions in May 2025, the Inspectors have requested that the South Staffordshire District Council ('Council') publish additional evidence of Duty to Co-operate [DtC] activity with neighbouring authorities. Examination Documents SST/ED32A-SSTS/ED34B have been published on the Council's website on the 15<sup>th</sup> of August 2025, which includes DtC Minutes across the Local Authorities, including the Black Country Authorities [BCAs].

As set out in St Philips' Matter Statements for the Stage 1 Hearings, whilst St Philips welcomes the Council's acknowledgment of the unmet needs of the Greater Birmingham and Black Country Housing Market Area [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, St Philips raised concerns in relation to the soundness of the LPR.

Namely, in relation to the Council proposing a contrived revised spatial strategy primarily to capitalise on the change in circumstances arising from the December 2023 National Planning Policy Framework's [NPPF] revised policy position on Green Belt release. Indeed, the Council's proposed nominal 'contribution', underpinned by a contrived spatial strategy, 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) and markedly reduces its contribution towards the unmet needs of the GBBCHMA. This also has the resultant effect of further compounding the unmet housing need issues of the GBBCHMA, rather than proactively seeking to meet these needs where sustainable to do so now. Indeed, this was confirmed by the Council in the Hearings in which the Council advised the Inspectors that they sought to defer action until such time as another Strategic Growth Study [SGS] is completed, whilst openly acknowledging that few (if any) authorities in the housing market area actioned the outcomes of the

previous SGS (EB28) – including the Council, who now consider that the previous SGS (EB28) carries no weight.

In this context, St Philips welcomes the Inspectors raising this matter as an Action Point. The DtC is both a legal and soundness test, under Section 33A of the Planning and Compulsory Purchase Act 2004 and the NPPF. As such, it is important to understand whether the Council’s proposed approach warrants a failure in either. Whilst St Philips considers that the Council has demonstrated that it has met the legal test, St Philips still 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 the LPR is not legally deficient in relation to the DtC but is unsound.

Crucially, the publication of the further DtC evidence (SST/ED32A-SST/ED32C) only serves to emphasise St Philips’ concerns further. Whilst the Council’s tacitly concludes that the GBBCHMA authorities raised no objections to their proposed reduction to their unmet need contribution and agreed to address the needs collectively through a future SGS (Paras 1.84-1.85), as highlighted in St Philips Matter 2 Statement, several authorities within the GBBCHMA – and in particular some of the BCAs – 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 April 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 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);*
- 4 **North Warwickshire Borough Council:** *“It does not adequately address the unmet need in relation to the housing shortfall for the Greater Birmingham and Black Country housing market area. The resulting major reduction in the housing proposed to address that unmet need within the latest Reg 19 Publication Plan, will have an impact on the level of unmet need remaining overall, increasing pressure on other adjoining authorities” (Emphasis Added); and*
- 5 **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)

Again, whilst the Council suggests that it is a DtC, and not a ‘Duty to Agree’ (Para 1.74), St Philips considers that Council’s DtC evidence (SST/ED32A-SST/ED32C) demonstrates that, despite engaging extensively with the GBBCHMA, the Council cannot evidence and justify its nominal and arbitrary contribution (i.e. a key outcome of a strategic matter), and is deferring this 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 were not satisfied with the Council’s approach to this important cross-boundary matter, ultimately questioning the soundness of the Council’s approach, as it compounds the unmet housing needs issues across the GBBCHMA.

In essence, St Philips remains of the view that the Council has clearly developed a contrived spatial strategy, with a *post-hoc* justification to align with the revised NPPF, rather than deriving it through the preparation of an evidence base and DtC discussions as it had done in the previous Regulation 19 version of the LPR. St Philips can see no evidence in the DtC evidence to support the Council’s view that GBBCHMA authorities support their proposed approach. Indeed, the ‘minutes’ documented in the ‘Appendix 22: Housing Market Area Meeting Agendas & Minutes’ are limited and provide no evidence that any of the authorities ‘endorsed’ the Council’s approach *per se*. Instead, the Council largely relies on the absence of a response in ‘Appendix 33: Relevant extracts from HMA authorities’ response to October 2023 letter and April 2024’. By way of example, the Council states that:

*“LDC did not object to the 640 contribution in their Reg 19 response but said it would need to be robustly justified, which we feel with have done through the plan and supporting evidence. Therefore, signing the November 2024 SoCG which includes 640 contribution does not represent a change of position by LDC.”*

In essence, the Council ‘marked its own homework’ and concluded that its position was sound, rather reflecting legitimate and substantiated concerns raised by the GBBCHMA authorities in relation to the Council’s nominal contribution. Again, Appendix 33 implies that “*thorough discussions at the HMA meetings*” authorities “*were accepting of this position*”, which resulted in the signing of the Statement of Common Ground [SoCG]. However, as noted above, the Appendix 22 minutes are limited in detail and do not, in St Philips’ view, substantiate this position. In addition, there is little impetus for other authorities in the GBBCHMA, such as Dudley, Sandwell and Walsall, to dissent from the Council’s approach, when they themselves are equally pursuing similar plan-making approaches (i.e. transitional arrangements and none-to-limited Green Belt release), and not sign the SoCG.

Given the substantial unmet need of c.56,300 homes up to 2042 across the GBBCHMA once the revised Local Plans have been prepared in line with the latest NPPF (see St Philips’ Matter 2 and 4 Statements), it is fundamentally clear to St Philips – and indeed many of the GBBCHMA authorities – that the LPR should have considered whether it could assist in meeting some of the unmet needs of the neighbouring authorities to a greater extent. Whilst it is recognised that it is a DtC, and not a ‘Duty to Agree’, it appears to St Philips that the Council’s DtC discussions with its neighbouring GBBCHMA authorities – and in particular the BCAs – was presented as a *fait accompli*, rather than an ongoing discussion, and is

therefore not based on ‘effective joint working’ (Para 35c) resulting in a plan that is not ‘positively prepared’ nor ‘justified’ (Para 26).

As set out in detail in St Philips Matter Statements for the Stage 1 Hearings, St Philips strongly contends that the scale of unmet needs arising within the GBBCHMA would constitute the ‘exceptional circumstances’ required to review the Green Belt – per the Calverton Judgment.<sup>1</sup> This is a viewpoint partially shared by the Council. However, as set out in St Philips’ Matter 6 Statement, whilst it is justified to consider whether ‘exceptional circumstances’ exist to justify Green Belt release, it is not necessary within national policy to consider the ‘exceptional circumstances’ on a settlement-by-settlement basis. This is because there is a need to consider the broader Green Belt policies and wider policies in the NPPF as a whole – such as those above but also enabling villages to grow and thrive to support services and infrastructure (Para 83) and also to respond to local needs (Para 82).

It is therefore plainly at odds with the NPPF to limit the Council’s contribution towards the GBBCHMA’s unmet housing needs on the premise that ‘exceptional circumstances’ should be applied on a site-by-site, or settlement-by-settlement, basis. Again, this illustrates that the Council has sought to formulate a contrived spatial strategy and is exacerbating the unmet housing needs situation across the GBBCHMA. In the context of the Guildford Judgment,<sup>2</sup> it is unclear to St Philips how the Council could, in their *‘rational exercise of a planning judgment’*, conclude that the acuteness of the GBBCHMA would only constitute ‘exceptional circumstances’ sufficient to release Green Belt in only Tier 1 settlements, rather than other settlements across the District.

In summary, the Council has published a ‘comprehensive’ evidence base in excess of several thousand pages to demonstrate it has addressed the DtC. Despite this, St Philips considers that the DtC evidence further emphasises that the Council’s LPR is unsound, with little to no evidence within it to substantiate the Council’s conclusions in the ‘Supplementary Note to the South Staffordshire Local Plan Examination 2025 – Matter 2 (Action 2.1)’ (SST/ED32A). In essence, the Council has sought to hide behind thousands of pages documenting discussions, rather than focusing on the effectiveness of these discussions and cooperation (i.e. procedurally sound but fundamentally ineffective). In conclusion, St Philips considers that it remains the case that the Council has not effectively co-operated with the relevant local planning authorities within the GBBCHMA in relation to the strategic matter of unmet housing needs and therefore does not accord with the NPPF (Paras 11b and 35c).

Yours faithfully



**Myles Wild-Smith**  
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<sup>1</sup> Calverton Parish Council v Greater Nottingham Councils [2015] EWHC 10784

<sup>2</sup> Compton Parish Council & Ors v Guildford Borough Council & Anor [2019] EWHC 3242