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Via letter and email

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Dear Sir

Telford & Wrekin Local Plan 2011-2031 Examination

Response to Council Paper K13 on behalf of Tesni Properties Ltd (ID 929966)

Opening comment

On Examination Day 1, Matter 1, I raised a simple question on what the Council's affordable housing OAN position was. You anticipated the Council to confirm its figure as 445 dpa¹, but it did not and after a convoluted search for its answer it eventually settled on 264 dpa².

The confusion is understandable as the evidence provided in the OAN Study by PBA (C2a, 2015) and the SHMA 2016 and Addendum by Arc4 (C2b-i and C2b-ii, 2016) are contradictory. Paper K13 does nothing to shed light on the contradiction. And again the presented evidence appears rushed with mistakes in the table. Some are inconsequential, for example deriving a figure from analysis of planning permissions granted at the end of March 2017? But others not so, for example the sum 20% of 1,041 presented as 198, when it is 208. Consequences may be small, but mistakes add up and the value of an evidence base lies in its accuracy and attention to detail. Paper K13 lacks both.

Affordable Housing Supply 2011-31 & Paper K13, Table 1

Underpinning the conclusion of a 63.1% identified supply of net affordable housing need (K13, Table 1) is the assumption the net need is 5,280 based on the 264 dpa net figure provided in the SHMA 2016 Addendum (C2b-ii, Table 1, Alternative Analysis³).

Though questioned and debated at length in the Examination one point not raised in the room, as it simply is not obvious from the presented data across the multitude of documents, is that the 264 dpa figure is wrong. Only through a need to

¹ Document C2a-i, Table 4.1 Affordable Housing Need

² Document C2b-ii, Table 1 Original and alternative affordable needs analysis (see Footnote 3 also)

³ Document C2b-ii, Table 1 actually produces a Net Annual Imbalance figure of 263 dpa under the Alternative scenario

understand Paper K3, Table 1 drew attention to this point. And, importantly, the figure is wrong irrespective of discussion and evidence submitted to date on the merit of analysis of the component parts in Stages 1 to 4 as set out in the table, accompanying report and other evidence documents.

The reason the figure is wrong is because the base date of the SHMA 2016 data is 1st April 2015. This means the Alternative forecast to take us to the end of the plan period at 31st March 2031 is 16 years, not 15. But it is 15 years that the calculations within C2b-ii, Table 1 has used to derive the net annual imbalance of 263 dpa. And it is this figure that is taken into Table 1, K13.

Fundamentally the Council is planning to the wrong target of affordable housing needs over the whole plan period because it has failed to identify what that the correct figure is.

Implications for the Local Plan

Mr Oakley, TWC confirmed at the Examination that it was the Council's case it could not provide any further affordable housing than it planned through market housing / Section 106, because to do so would be undeliverable⁴. Paper K13 echoes his reply that a higher housing requirement could *result in setting unrealistic and unachievable delivery rates*. But the analysis is curious. Because a sustainable delivery of 20,000 homes was assessed in preparation of the Plan, the Council knows the delivery rate to achieve this (1,000 dpa net) has no adverse implication on social, economic and environmental factors⁵. It is not surprising as Telford, as a new town, has an enviable infrastructure, planned and delivered to accommodate significantly greater growth than achieved to date, and above and beyond even a further 20,000 homes.

Paper K13, para.9 bullet 3, only considers a delivery of 25,280 homes to meet the entire assessed affordable housing need. What it does not do is consider whether there is a deliverable point between its housing requirement 15,555 and 25,280 that remains deliverable. This is precisely what PPG 2a-029 requires, and it is precisely the absent test in the Council's evidence base and Paper K13.

Helpfully the PBA Background Paper 2016 (G14) introduces at para.2.70 the principles for such a test established in the *Kings Lynn HCJ*⁶ judgment. Unhelpfully, the judgment was not attached to Document G14, but I append here to assist. Mr Justice Dove deals with matters salient to identification of affordable housing needs at [35] to [38]. In extract summary;

'36. This consideration of an increase to help deliver the required number of affordable homes, rather than an instruction that the requirement be met in total, is consistent with the policy in paragraph 159 of the Framework requiring that the SHMA "addresses" these needs in determining the FOAN. They should have an important influence increasing the derived FOAN since they are significant factors in providing for housing needs within an area.'

...

38. Thus, when paragraph 47 of the Framework requires the local plan to meet "the full objectively assessed needs for market and affordable housing," that is the figure determined by the SHMA required by the paragraph 159 of the Framework for the purpose of identifying the FOAN. That process, guided by the PPG, seeks to meet household and population projections (taking account of migration and demographic change), and to address the need for types of housing including affordable housing. When a planning authority has undertaken or commissioned a SHMA, that will obviously be an important piece of evidence, but it is not in and of itself conclusive. It will be debated and tested at the local plan examination or (as in the present case) in appeals within the development control process.

⁴ Mr Oakley, TWC (Day 3, Matter 3) in reply to Mr Gilbert's question on the Sustainability Appraisal supporting 20,000 homes

⁵ Ibid.

⁶ 2015 EWHC 2464 (Admin) *Kings Lynn and West Norfolk v Secretary of State CLG and Elm Park Holdings* [Appended]

Two fundamental points arise on affordable housing need and delivery:

1. The SHMA 2016 (C2b) post-dates the Submission version of the Plan. This means the SHMA 2016 cannot have *had an important influence increasing the derived FOAN.*
2. This means the OAN as defined by the work of PBA OAN Study (C2a) cannot be compliant with the NPPF paragraph 47 when it says it requires the local plan to meet *"the full objectively assessed needs for market and affordable housing,"* because the figure presented by OAN and the Submission version of the Plan is not a *figure determined by the SHMA required by the paragraph 159 of the Framework for the purpose of identifying the FOAN.*

The implication for the Local Plan is clear. It is inconsistent with the NPPF and PPG in preparation of the objectively assessed needs for affordable housing. Is it any wonder then that the figures are inaccurate if the cart has been put before the horse?

Paper K13, para.9 states '*... the Council does not consider it necessary or helpful to make a further uplift to the housing figure to help deliver the required number of affordable homes.*'

With great respect, unhelpful to whom? It is not unhelpful for those in housing need. It is not unhelpful to the house building industry which has made plain it has the desire to build. It is not unhelpful for employers looking to grow or locate in Telford. And it is not unhelpful to West Midland authorities needing to accommodate unmet needs. On the contrary it would be very helpful and beneficial to existing and future residents, and is actually quite necessary. To do nothing more means the Plan is purposefully and deliberately planning for lower growth than can be achieved at the expense of the people in the most need and least equipped to help themselves. This cannot be right.

Paper K13, para.11 refers to closing comments of Inspector Stephen Pratt on the Stroud Local Plan. These are not transferrable to the circumstance of Telford & Wrekin Council. Stroud does not have the infrastructure, capacity and ability to better meet its housing needs compared to the new town of Telford. There is no need for modesty here; there is every opportunity for boldness.

Contradiction in evidence

At the Examination you cautioned the evidence base must not be contradictory. Without unduly repeating matters discussed, I draw to your attention as part of your consideration the following statements in evidence to compare to the *Kings Lynn HCJ* that the Council's advisor suggests are now well established principles to follow:

- PBA OAN Report (C2a-i), para.4.42 '*To assess the implications of the above number [refers to 2014 SHMA figure 445 dpa annual net affordable housing need] we follow the approach set out in Appendix C. This starts from the principle that affordable need, as calculated in the SHMA, is not part of the objectively assessed need (OAN).*'
- PBA OAN Background Paper 2016 (G14), para.2.70 '*It is important to understand that affordable housing need, as measured in the SHMA, is not a component of the OAN or overall housing need, and there is no requirement that the OAN cover affordable need in full. This principle is now well established, following the Kings Lynn High Court judgment ...*'
- TWC Matter 1 Paper (J1/TWC), para.1.1.11 '*The Council assessed affordable need in the SHMA 2016, whose findings are summarised in the Background Paper. In line with the PPG, High Court Judgments and Inspector's advice this affordable need is not part of the OAN and there is no requirement for the OAN to meet it in full.*'
- Arc4 SHMA 2016 (C2-b-i), paras.8.16 – 8.18;
 - '*8.16 ... This SHMA concludes the OAN for Telford and Wrekin equates to 497 dwellings a year.*
 - '*8.17 The objectively assessed need figure takes account of the need to deliver more Affordable and market housing for an increasing number of households, take account of likely levels of net in-migration and support economic growth.*

- *'8.18 The Telford and Wrekin new Local Plan sets out a Housing Requirement of 15,555 dwellings up to 2031. This is considerably higher than the OAN figure of 9,940 and reflects the growth ambitions of the Council and supports the delivery of affordable housing.*

[All above emphasis my own]

I take, and have taken, no objection on the point that NPPF, PPG or case law requires, or has interpreted, that the whole affordable housing need must be delivered in setting the OAN. But it is plain that in setting its OAN figure no consideration was given to affordable housing by PBA or the Council for the Submission version of the Plan, and specifically could not have done so from the SHMA 2016 evidence upon which it now relies as its position of affordable need. Yet Arc4 clearly does consider that the OAN took account for (some) delivery of affordable needs, a direct contradiction in my view.

Conclusion

I asked a simple question because I could not understand the process and logic in the setting of the affordable housing OAN. Paper K13 has led to further errors in presented evidence and has now highlighted that even the figure of 264 dpa now relied upon is wrong too. And it is clear that the Council has failed to follow its own referenced advice in the *Kings Lynn HCJ* in setting the OAN, with its advisor taking contradictory approaches.

You will reach your conclusions and recommendations on the Plan and its evidence base in due course. It is my view that the Plan and its evidence related to affordable housing is insufficiently rigorous, accurate or justified. As it stands the increasing number and scope of fundamental errors in the evidence base can only lead to a conclusion the Plan is unsound. In my view, and that of Tesni Properties Ltd, the Plan should either be withdrawn or the Examination suspended to allow a fundamental review and re-consultation on a fresh, accurate and coherent evidence base.

Yours faithfully



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 DPP

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Enc. 2015 EWHC 2464 (Admin) *Kings Lynn and West Norfolk v Secretary of State CLG and Elm Park Holdings*

cc. Tesni Properties Ltd
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