

SHROPSHIRE LOCAL PLAN EXAMINATION

Stage 1 Hearing Statement

Representor unique Part A Ref *	A0512
Matter	3
Relevant questions nos	Q14, Q15

*Your unique reference can be found in the Schedule of Respondents (Schedule 3 of document SD014.01) at:

<https://shropshire.gov.uk/planning-policy/local-planning/local-plan-review/draft-shropshire-local-plan-2016-2038-examination/examination-library/earlier-regulation-18-plan-making-stages-of-consultation/regulation-19-pre-submission-draft-of-the-shropshire-local-plan-consultation/>

Shropshire Local Plan Review Examination

Stage 1: Matters, Issues and Questions

Matter 3: Development Strategy

**Hearing Statement on behalf of
Radnorshire Coal Co. Ltd and B & J Davies (Bucknell) Ltd.**
Wednesday 6th/Thursday 7th July 2022

Introduction

This Hearing Statement is prepared in order to set out the position of Radnorshire Coal Co. Ltd and B & J Davies (Bucknell) Ltd. (the Representors) with regard to a number of policies contained in the Draft Local Plan Review, but most particularly the operation of Policies SP2 and SP8 and with particular regard to their effect on the possibility of redeveloping the railway yard/timber yard at Bucknell, Shropshire.

The Statement concentrates on the issues raised by the Inspectors and which will be discussed in Stage 1 of the Examination which relate to the “Development Strategy” (Policies SP1-SP15) of the Draft Plan, as far as they relate to the allocation of site BUCK001 in Bucknell for residential development of 70 dwellings. Detailed representations were made at the Reg. 19 stage of the Local Plan process.

It is appreciated that some of the concerns expressed in this statement may have been considered in Session 1 if the Examination in relation to the Habitats Regulations Assessment. This Statement, however, is concerned with the effect of the lack of action by the various responsible Authorities over the past ten years or so upon the development prospects for the area around Bucknell and its potential for increasing its sustainability. It particularly responds to Questions 3, 4, 15 and 16 of the Inspectors’ Matters, Issues and Question, document ID7. This Statement provides a clear example of the effect that adopted restrictive policies have had and will continue to have on development potential.

Summary of the objection

In brief, the objection submitted in respect of the Regulation 19 consultation draft of the Plan Review and which remain the Representors concern can be summarised as:

The strategy outlined in Policy SP2.2 as far as it relates to residential development indicates that some 30,800 dwellings will be delivered during the Plan period. This will be accompanied by 300ha of employment land. The “rurality” of much of Shropshire is noted in Policy SP2.6 as is “the importance of ensuring the long-term sustainability of rural communities”. On this

basis development in the rural area of the County will be guided towards Community Hubs and Community Clusters, outside of which new development will be limited to affordable housing and to support rural employment.

This approach is considered appropriate by the Representors as a general principle, but it is important that the Council is able and willing to grant permission for the allocated development without unnecessary restriction, if the aim of improving the sustainability of rural settlements is to be achieved. Policies, such as DP13, which impose restrictions beyond the control of the developer are in conflict with the aims of the Plan in trying to improve the sustainability of the rural area.

Policy SP8 relates to managing development in Community Hubs which, the policy says, are significant service centres in the rural area. These settlements will be permitted appropriate levels of development, subject to a number of detailed criteria. Those settlements that will be regarded as Community Hubs are identified in Schedule SP2.2 which follows Policy SP2. Bucknell is named as a Community Hub, and it does, indeed, act as a focus in the rural area, it needs development in order to support short and long term sustainability. It is important that the Council is able and willing to grant permission for the development allocated.

The Representors believe the Council has either,

- i. Placed unnecessary restrictions on the possible development of the Railway Yard/Timber Yard at Bucknell in the protection of the River Clun Special Area of Conservation (SAC) and/or
- ii. Have failed to undertake appropriate measures to ensure that the allocations set out in the Plan Review for Bucknell and other settlements can deliver the development that is assessed as being necessary.

Background

Bucknell is a village lying around 48km south-west of Shrewsbury (off the A488), 12.4km west of Ludlow and 8.9km east of Knighton.

The sequence of planning policy and applications history, as they relate to the timber yard/railway yard were explained in the Reg. 19 submission.

Briefly this history began with the allocation of the railway yard/timber yard for housing in the 2004 – 2011 South Shropshire Local Plan. Before Shropshire became a Unitary Authority the area in which Bucknell is situated lay in the jurisdiction of South Shropshire District Council (SSDC). The last Local Plan prepared by SSDC before it became part of Shropshire Council was adopted in April 2005. In that document the timber yard at Bucknell was allocated 20 dwellings. At that time there was, apparently, no obstacle to development due to the presence of freshwater pearl mussels in the River Clun.

The Plan also indicated acceptance that development of the site should include provision for some employment development.

Bucknell drains to the River Redlake which is a tributary to the River Clun. Part of the River Clun is designated a Special Area for Conservation (SAC). Bucknell itself does not lie within the SAC, but does lie within the River Clun catchment.

Surveys carried out since 1995 showed that the freshwater pearl mussel population was functionally extinct, meaning that the mussels were likely to survive for only a further 20 years if nothing was done to improve the conditions in the Special Area of Conservation (information taken from the Rive Clun SAC Nutrient Management Plan of October 2014).

In 2000 a planning application for the construction of 30 dwellinghouses on the railway yard/timber yard site (following favourable advice from the Council) was submitted by the Representors. The Council (South Shropshire District, at the time) resolved to approve the proposal subject to a S.106 agreement (that was never prepared) but then decided to treat the application as withdrawn.

Following the adoption of the SSDC Local Plan in 2005 an application seeking permission for the construction of, again, 30 dwellings and a new shop was submitted. This application was approved, subject to conditions relating to the submission of drainage details, in December 2011.

The Shropshire Core Strategy had been adopted in February 2011. This introduced the idea of Community Hubs and Community Clusters. These which were to be identified in the forthcoming Site Allocations and Management of Development Plan. Bucknell was subsequently identified as a Community Hub.

Indications given at the time, but before the adoption of the SAMDev, by the Council's Officers were that the Council would be happy to see 50 dwellings constructed on the railway yard/timber yard.

A full planning application was submitted in August 2013, proposing that some 50 dwellings should be constructed on the site. Issues relating to traffic, affordable housing, open space, ecology, ground contamination, flood risk, housing layout were all resolved.

That application remains undetermined, the reason for the delay being an objection from Natural England based on the effect the development might have on the nutrient levels (phosphate and nitrate) in the River Clun, which is where the fresh water pearl mussel colony is located.

The SAMDev Plan 2006 – 2026 was adopted on 17 December 2015, formally identifying Bucknell as a Community Hub, with the railway/timber yard allocated as BUCK001 for some 70 dwellings with 1.4ha of employment land.

A number of meetings with the Council were undertaken between August 2013 and 2021, each with a very positive outcome and following one such meeting the application was altered at the suggestion of the Council, to an Outline submission. However, no movement towards the grant of planning permission for the development of the site at Bucknell was made.

The effect of this situation relating to the River Clun is not limited to Bucknell. Allocated sites in Clun and Bishop's Castle and other smaller settlements have also been prevented from being developed, meaning that a sizeable proportion of dwellings in the Bishop's Castle Place Plan area has not be built – a total of around 314 houses.

The Local Plan Review has, again, designated Bucknell as a Community Hub, this time with an allocation for around 110 dwellings, 70 of which are intended for the "saved" railway yard/timber yard site.

The Review indicates at Policy S2.2.6 that the development at Bucknell, amongst others, is likely to have an adverse effect on the River Clun SAC and thus Policy DP13 applies. It also says that mitigation measures are identified in the Plan's Habitat Regulations Assessment, which is in conflict with the advice in para 5.25 of the Plan which indicates, in relation to Bishop's Castle, that "there are currently no mitigation measures that would remove this effect (i.e. the potential adverse effect on the River Clun").

Policy DP13 says that development in the River Clun catchment will only be permitted if it can demonstrate nutrient neutrality or nutrient betterment.

The latest "Guidance for Development Within the River Clun Catchment" issued by the Council and last updated on 7 April 2022, indicates that "development which generates sewage is unable to proceed if it:

- Increases the number of households in the Clun catchment, or
- Increases overnight accommodation capacity, or
- Leads to increased visitors to the Clun catchment."

Again, with regard to Bishop's Castle the Plan Review says in para 5.25 that although there are currently no mitigation measures that would remove the possible effect on the SAC "that is not to say that they will not come forward during the Local Plan period".

So, we have a situation where Bucknell, along with others, have been identified; quite sensibly and appropriately and in line with the development strategy set out in Policy SP2, as Community Hubs (or a Key Centre) and yet the same restriction that has existed for the life of the current Local Plan is to be extended, indefinitely, into the period of the new plan in the hope that something might happen that could enable the restriction to be released.

Natural England have issued a series of Advice Notes/Reports which conclude that the situation in the River Clun is so critical that no further residential development (amongst other forms of development) can be permitted unless it can be demonstrated that the development can be made "nutrient neutral", and that one way of achieving nutrient neutrality might be to employ mitigation measures. However, what these measures might be or how they might be provided is not explained in their documents, and it does not appear that the Council are aware of such measures. Documents issued by the Council are equally vague on the matter.

It is, in the Representors view, clear that the Plan, as far as the consideration of development within the River Clun catchment is concerned has:

- i. not been shaped by early, proportionate and effective engagement, as suggested in para 16c) of the NPPF, or
- ii. been written clearly and unambiguously, as suggested in para 16d) of the NPPF.

The situation raises a number of questions that are not answered in the Plan Review or the Advisory documents issued by Natural England, such as:

1. Why, when the problems associated with development in the River Clun catchment have been known for many years have the relevant Authorities not managed to come up with clear advice on mitigation measures that would be acceptable to them in order to allow development to progress.

2. Why, given that the last Nutrient Management Plan was published in 2014 (and judging from the amount of information collected that has been included in the document must have been in preparation for some time before that date) and given that the relevant Authorities have carried out certain improvement measures, has the water quality in the River Clun been allowed to continue in an “unfavourable condition”?
3. What is the current condition of the pearl mussels in the River Clun? The 2014 Nutrient Management Plan began by saying that if water quality and habitat conditions are restored a slow recovery in the pearl mussel population should be possible. However, given the current assessment that, in spite of certain improvements, the River Clun is still on unfavourable condition, what life expectancy for the mussels is now thought to be possible?
4. As far as the Bucknell Waste Water Treatment Works (WWTW) are concerned, improvements to the ability of the works to increase phosphate stripping was carried out, and yet it does not appear that the overall water quality in the River Clun has improved. So,
 - i. What improvement to the overall water quality in the River was achieved by the Water Company’s actions?
 - ii. How far did the improvements carried out positively affect the discharge to the River Redlake?
 - iii. The Water Company were aware of the various allocations for housing development in the Local Plans, and in particular in Bucknell, that have been adopted over the past 15 years or so, and have indicated that the Bucknell WWTW can accept the increased loading from the allocated housing. So,
 - a. Why was the phosphate stripping that was imposed at Bucknell insufficient to cater for the development that was known was allocated in Bucknell? and
 - b. Why, if the Water Treatment Works can cope with the discharge from the known proposed development in Bucknell, will the quality of the discharge to the River Redlake be any different with the proposed development than it is at present? If the works are going to be capable of producing discharge which is no worse than at present what reason is there for preventing further development?

The Representors do not suggest that the pearl mussel colony should be ignored; it rightly needs attention. However, it does appear that simply preventing development is an easy way of putting off dealing with a problem that has been known about for years. While preventing development might ensure the quality of the water in the River Clun does not get any worse, it will not bring about any improvement, which is what is needed.

The WWTW at Bucknell does not take sewage from Bishop’s Castle or Clun, but has had improved phosphate stripping facilities. The result appears to be acceptable to Natural England, Severn Trent Water and the Environment Agency, and yet there is no explanation of why the development of BUCK001, at Bucknell, cannot go ahead. It does not appear to the Representors that the dwellings allocated to Bucknell (and which, as an aside, are very much supported by the Parish Council and the local community) can be delivered soon if the present Natural England’s and Shropshire Council’

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current stance is maintained. Clarity in ways which developers can propose in order to unlock the situation is needed as part of the Local Plan strategy.