



 Part of Shakespeare Martineau

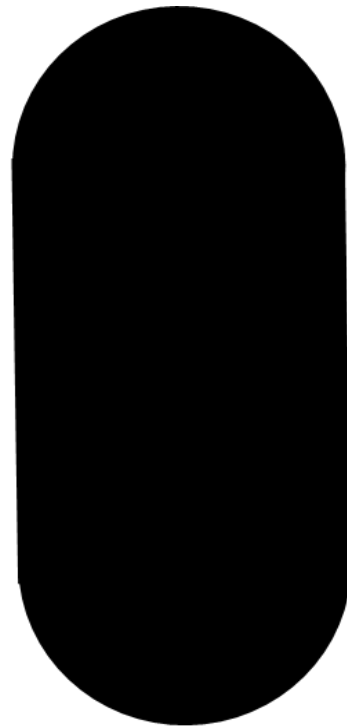
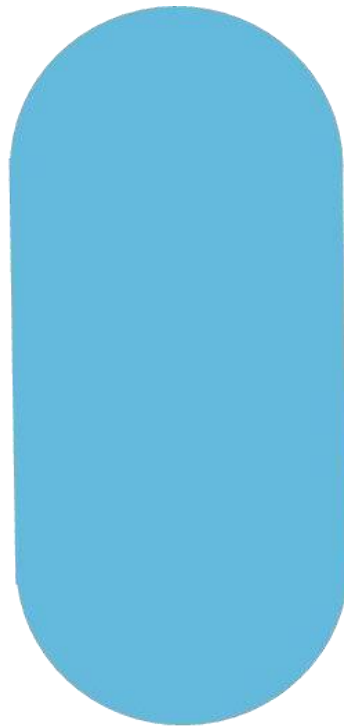
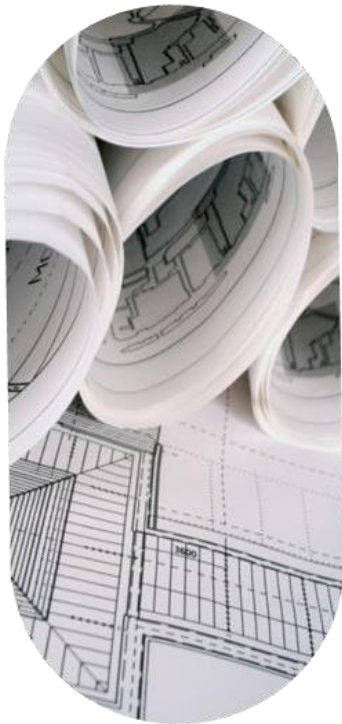
Shropshire Local Plan Review

Examination in Public

Matter 1 – Legal and Procedural Requirements

Gleeson Land

September 2024



Contents

1. Introduction.....	3
2. Whether the Council has complied with the relevant procedural and legal requirements.	4

Document Management				
Matter Number	Author		Checked/Approved	
Draft	MW	20-09-2024	Client	20-09-2024
Final	MW	20-09-2024	Client	20-09-2024
Revision	-	-	-	-

1. Introduction

- 1.1. This response to Matter 31 of the Inspectors' MIQs in respect of the Shropshire Local Plan Review (SLPR) Examination in Public has been prepared by Marrons on behalf of Gleeson Land. Marrons have been instructed to appear at the Examination on behalf of Gleeson Land.
- 1.2. This hearing statement should be read alongside previous representation to the further consultation (within GC52) submitted by Cerda on behalf of Gleeson Land along with detailed submission at Regulation 19 consultation stage and should be considered in the context of support for a plan led system.
- 1.3. Gleeson Land are promoting land at Bayston Hill (BAY040) for residential development, and it is considered that the site could accommodate circa 250 dwellings that could contribute both to meeting unmet needs and any changes in the needs associated with Shropshire itself.
- 1.4. In order to assist the Inspectors', the contents of this submission and the submissions made in respect of other Matters, demonstrate that the submission version of the Plan Review is not, in our assessment capable of being found sound, without significant additional evidence and the identification of additional sites to accommodate housing growth over the Plan period.
- 1.5. These submission reflect the recent position outlined by Housing Minister Matthew Pennycook and the Chief Executive of the Planning Inspectorate with regard to the continued use of 'pragmatism' in the Examination of Plans and the recognition that any fundamental issues or areas of additional work that require a pause of more than six-months in the Examination process, should indicate that a Plan is not capable of being found sound. As such aligned with the above consideration, in the current context, we do not believe that the Plan is capable of being found sound.
- 1.6. We consider that the Sustainability Appraisal process is totally flawed, to the extent that it is unlawful, as it does not meet the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 ("the SEA Regulations"). There has been a failure to consistently and robustly consider reasonable alternatives contrary to Regulation 12 and Schedule 2, paragraph 8. As such we do not consider that the Plan is capable of being found sound. If, however, the Inspectors' are minded to find the Plan sound, as a minimum, the Council should recognise that my clients land at Bayston Hill should be allocated, without delay for development or identified as a reserve site.

2. Whether the Council has complied with the relevant procedural and legal requirements.

Updated Sustainability Appraisal

1. **Are the likely environmental, social, and economic effects of the Plan adequately and accurately assessed in the updated Sustainability Appraisal (SA)?**
- 2.1. We fundamentally consider the SA to be inadequate and legally non-compliant. We consider that the SA fails to adequately, accurately and consistently test reasonable strategic options and specific sites.
- 2.2. The updated additional SA assessment work included assessment of the three reasonable options for the housing requirement (each with and without a proposed contribution to the unmet housing need forecast to arise in the Black Country).
- 2.3. The updated additional SA assessment, aligned with previous iteration of the SA, ultimately concluded that on balance, Option 3b: High Growth Plus a 1,500 Dwelling Contribution to the Black Country Authorities Unmet Housing Needs represented the most sustainable of the reasonable options for the level of housing growth identified.
- 2.4. Gleeson Land recognise that Growth Option 3b demonstrates that the Council are seeking to take a proactive approach to seeing economic and social growth for existing and future residents of the Plan area, but note that the cumulative data from adjacent authorities indicates that the unmet housing need for GBBCHMA is now estimated to be more than 100,000. Through the updated Additional SA, Shropshire should have comprehensively tested and implemented a strategy to release significantly more sustainable, suitable, and deliverable sites to assist with unmet need, in areas best aligned with where such unmet need is arising.
- 2.5. The approach taken to assessing sites in line with the proposed strategy is fundamentally flawed. The SA metrics for both residential and employment locations concentrate on calculating the distance to an existing facility or service. The only other criteria against which a site is assessed are environmental considerations related to air quality, waste management, floods, and sensitivity to landscape and history. There is no opportunity to objectively assess the advantages of a different approach for places that do not currently score highly in terms of distance from facilities, including the provision of strategic infrastructure, such as the provision of a new school, or health and retail facilities.

- 2.6. Further, in assessing sites to contribute to unmet need, detailed within the updated additional SA, there is insufficient recognition of the environmental and social benefits of locating growth in areas with the greatest physical association with the BCWMCA, especially areas with strategic road and rail links. The fact remains that the most suitable sites for accommodating unmet need, have been omitted from the Plan without reasonable justification.
- 2.7. The SA, notwithstanding the limited notion of what constitutes environmental benefit and harm, fails to sufficiently consider economic and social objectives. The Plan making process, as set out within the SA, does not give sufficient consideration to the socio-economic benefits of delivering housing and employment growth in the most appropriate locations to address unmet need.
- 2.8. Furthermore, owing to the length of the ongoing Examination in Public and the number of revisions that have been required and additional work including the Updated Additional Sustainability Appraisal (GC44), it is challenging to follow the methodology and processes undertaken by the Council. This will be particularly true for local residents who have an interest in their local community.

2. Does the updated SA test the Plan against the preferred options chosen and all reasonable alternatives?

- 2.9. We fundamentally consider the SA to be inadequate and legally non-compliant. As detailed in our previous submissions, listed above, we consider that the SA fails to adequately test reasonable strategic options and specific sites.
- 2.10. The exercise required of the Council that would necessitate consideration, at the same level of depth, for all reasonable alternatives as the preferred option, the Plan review must evaluate the entire spectrum of reasonable alternatives. The settlement hierarchy's detailed site allocation alternatives must be thoroughly evaluated, and this has simply not happened, with sites located in certain settlements, such as Bayston Hill, having been disproportionately disregarded, and scored incorrectly in the SA testing.
- 2.11. As such it appears that the Council's chosen strategy has been pre-determined with further testing of reasonable alternatives seemingly dismissed, including the allocation of land at Bayston Hill, which is demonstrably closer to the black country than the sites proposed to meet the Black Country's unmet need and is more than capable of accommodating meaningful growth.
- 2.12. The scoring of the SA should take into account the advantages of early site delivery and the delivery of community benefits, and it should be acknowledged that the

delivery of community infrastructure is essential for attaining the SA's goals. As drafted the SA fails in this regard.

- 2.13. On the basis of the conclusion drawn by the Council with regard to planning to meet the requirements set out within Option 3b and aligned with the above references set out within the Inspectors Interim Findings (ID28) the updated additional SA considers option for accommodating the uplift comprising;
- Option 1: Increasing Settlement Guidelines and Windfall Allowances.
 - Option 2: Densification of Proposed Site Allocations.
 - Option 3: Increasing Site Allocations.
 - Option 4: A Combination of Two or More of the Other Options.
- 2.14. The updated additional SA advocates Option 1 for identifying the additional land required to meet the previously agreed level of unmet housing need.
- 2.15. Windfall allowances, which include "saved" SAMDev allocations and proposed allocations, are essentially the difference between the housing guidelines for settlements and the capacity of completions already achieved in the proposed plan period / identified commitments. This allowance may be attained by the emergence of more homes on "windfall sites," which are unplanned locations made possible by the draft Shropshire Local Plan, or by the emergence of more homes in a community from other sources.
- 2.16. We have significant concerns with regard to the Council's stated reliance on windfall development, not least because with specific regard to meeting unmet housing needs, it is essential to ensure that growth is met as close to the area from which the need is arising and a reliance on windfall development does not allow for this to be controlled.
- 2.17. Unmet needs, in the case of assisting the Black Country, these should be met as close to the Black Country as possible and should be located within an area that has strong structural, infrastructure and social connections. We return to suitable options for addressing unmet needs below.
- 2.18. Further, Gleeson Land have significant concerns about this approach and in particular the manner in which evidence published by the Council since Plan preparation commenced is inconsistent in regard to windfall development in particular.
- 2.19. For example, the Councils Strategic Land availability assessment 2018 recommended a robust approach to windfall and stated that *"only a very modest small-scale windfall allowance of 299 dwellings per annum has been applied, significantly less than the average and any individual years rate of delivery during the*

current Local Plan period. To add further robustness, this has also not been included for the first three years of the trajectory (2017/18 to 2019/2020)”.

- 2.20. However, Shropshire’s latest 5-year housing land supply statement (31st March 2023) appears to take a rather different position and states that “*windfall development does and will continue to represent an important part of the housing land supply*”.
- 2.21. The simple fact is that the Council are relying on 3,522 dwellings of windfall development to contribute to the 31,300 dwellings supply. This amounts to 11.3% of supply being made up of windfall development and as such, the Plan, notwithstanding considerable concerns relating to the delivery or suitability of a number of the sites identified to meet the identified needs, has failed to identify sufficient development to meet needs over the plan period.
- 2.22. Given the length of the time over which the Shropshire Local Plan has been prepared, national planning policy has been subject to significant changes that specifically relate to windfall development. Flexibility within Plan making is very much advocated by national policies, specifically policies pertaining to change of use, the reuse of redundant buildings and most specifically changes in Permitted Development Rights. Significant changes permitted development rights in 2021, which facilitate Class E units being converted into dwellings with prior approval has disproportionately inflated windfall completions on which the Council evidence their approach. However, as with any new policy swings, the impact of the July 2021 changes is very much inflationary, with there being a finite number of sites that can continue to contribute to windfall allowances and the fundamental point on smaller windfall sites, in that capacity will be far more constrained than the Council are anticipating, with recent past trends simply being unsustainable.
- 2.23. The updated additional SA (and the Housing and Employment Topic Paper (GC45) fails to consider the cause for the uptick in windfall completions and fails to justify that windfall rates will continue at the current rate. The robust and restrained approach taken by the Council back in 2018 be the default position.
- 2.24. It is further surprising and concerning to note that sites in excess of 10 dwellings are considered to constitute windfall development. Sites of such scale, that in particular, would require the provision of affordable housing and in some instances infrastructure, should, as a basic planning principle, be allocated within a Plan and should not be contained within windfall calculations. In so doing, the Council are failing to strictly control the location and delivery of development, we further consider that the Council simply have not justified or provided sufficient evidence to suggest that sufficient windfall development will come forward in sustainable locations within

the Plan period to account for the level of windfall development that is required within Option 1 to support the growth scenario set out in option 3b for wider development.

- 2.25. It is not positively prepared or justified to rely on existing commitments and windfall development to meet the indicative level of housing required.
- 2.26. Whilst we do support the allocation of additional sites within the updated additional SA, we have identified a concerning number of inconsistencies in the assessment of sites within GC44. Through the updated SA, a series of sites have been identified to accommodate the proposed 1,500 dwelling contribution to the Black Country. These are:
- BRD030 – Taskey Garden Village, Bridgenorth: 600 dwellings;
 - SHR060, SHR158 and SHR161 – Land between Mytton Oak Road and Hanwood Road, Shrewsbury: 300 dwellings.
 - IRN001 – Former Ironbridge Power Station: 600 dwellings.
- 2.27. Turning first to assessment of each of these sites, and my clients land at Bayston Hill (BAY040) which was considered in earlier iterations of the Plan, the Council’s own assessment of the contribution that each site can make to addressing the Black Country’s unmet need demonstrates significant inconsistencies.

Table 1: Assessment of contribution to meeting Black Country’s Need (Table 12.1 of update additional SA).

Criteria	BRD030	SHR060	IRN001	BAY040
Settlement Contribution	Fair	Fair	Poor	Not considered with updated SA
Black Country Conclusion	Fair	Good	Poor	Not considered with updated SA

- 2.28. I have below set out details of comparisons with other sites identified for allocation in Bayston Hill, but being conscious that the purpose of this stage of the Examination is to consider matters pertaining to unmet need and the position taken as part of the additional updated SA, I have considered the contribution that BAY040 could make to accommodating unmet need arising from the Black Country.
- 2.29. The Plan as submitted recognises the rurality of much of Shropshire and it attempts to ensure the long-term sustainability of rural communities. It directs growth in the urban areas listed above and would be complemented new development within Community Hubs. The Shrewsbury Place Plan Area contains a number of Community Hub settlements of which Bayston Hill is one.

- 2.30. Given it's proximity to Shrewsbury, it is reasonable to assume that aligned with SHR060, development of the site would score 'good' in regard to the assessment of meeting the Black Country's unmet need.
- 2.31. Turning specifically to the development potential of the three sites listed above, we are concerned that there has been insufficient consideration given to the viability and ability for the sites to deliver a policy compliant level of affordable housing and the wider infrastructure required to make the development otherwise suitable and sustainable for development.
- 2.32. With specific reference to BRD030, land assembly has been identified as a significant constraint to development, as has the available road frontage that would allow for principal access points to support multiple developers to commence development on the site simultaneously, as is assumed by the Council within their trajectory.
- 2.33. We further consider that the allocation of these sites does not make the best use of the strategic connections with the Black Country and that the Council should consider allocating sites, which are supported by technical evidence in terms of the proposed quantum of development and the infrastructure proposed being deliverable within the Plan period.

Table 2: Council's SA Scoring

Criteria	Criteria Description	BRD030	SHR060	IRN001	BAY040
1	Special Area of Conservation	0	0	0	0
	Ramsar	0	0	0	0
	National Nature Reserve	0	0	0	0
	Site of Specific Scientia Interest	0	0	--	0
	Ancient Woodland	0	0	0	0
	Wildlife Site	0	0	--	0
	Local Nature Reserve	0	0	0	0
2	1km of Special Area of Conservation	0	0	0	0
	1km of Ramsar Site	0	0	0	-
	500m of National Nature Reserve	0	0	0	0
	500m of Site of Scientific Interest	0	0	-	0
	500m of Ancient Woodland	0	0	-	0
	100m of Local Nature Reserve	0	0	-	0
3	Tree Preservation Order	-	0	0	0
4	Children's Playground	0	0	-	0
	Outdoor Sports Facility	0	0	0	0
	Amenity Green Space	0	0	-	0
	Accessible natural Green Space	0	0	0	0
5	Primary School	+	-	-	-
	GP Surgery	-	-	-	+
	Library	-	-	-	+
	Leisure Centre	-	-	-	-
	Children's playground	-	+	-	+
	Outdoor Sports facility	-	+	+	+
	Amenity Green Space	+	+	-	-
	Accessible natural green space	-	+	+	+
6	Within 480m of public transport node	+	-	+	-

Shropshire Local Plan Review
Matter 1 – Legal and Procedural Requirements
Gleeson Land

7	Wholly on grade 1 or 2 agricultural land	-	-	-	-
8	Source Protection Zone	0	0	0	-
9	All are part within Flood Zone 2 and 3	-	0	-	0
10	Air Quality Management Area	0	0	0	0
11	Brownfield/PDL	+	0	+	0
12	Existing waste management option	0	0	0	0
13	World Heritage Site or Buffer Zone	0	0	0	0
	A scheduled Monument	0	0	0	0
	A Registered Battlefield	0	0	0	0
	A Registered Park or Garden	0	0	0	0
	A Conservation Area	0	0	--	0
	A Listed Building	--	0	0	0
14	300 m of World Heritage Site or Buffer Zone	0	0	-	0
	300m of Scheduled Ancient Monument	0	0	-	-
	300m of Registered Battlefield	0	0	0	0
	300m of Park and Garden	0	0	0	0
	300m of Conservation Area	0	0	-	-
	300m of Listed Building	-	0	-	-
15	High landscape sensitivity area				
	Low, medium of high landscape sensitivity	0	0	0	0
	Low landscape sensitivity				
Overall Score		-8	-7	-17	-3

- 2.34. As is clearly demonstrated above, BAY040 scores considerably better against the Council's own identified criteria than any of the sites proposed within the Plan to accommodate unmet need. And in the case of the Ironbridge allocation, BAY040 not only performs significantly better, but the degree of harm from developing out IRN001 is evident within the SA with particular concerns relating to heritage and ecological sites.
- 2.35. Additionally, we question the Council's assessment and consideration of BAY040 and refer the Inspectors to paragraph 7.42 of the Cerda representations to the May-June 2024 consultation which concludes that the Council had already scored the site as Good in their SA but attributed the numerical score as -3. Cerda's score has increased to 4, which is still Good (as this is the highest category) and has been adjusted to take account of the fact that the development of the site is well within 480m of the common (360m from the site boundary) which provide a public area of natural open space and for children to play in, which would remove two negative scores due to the current proximity of these facilities in relation to the site. In any case if the Council justified any specific requirement for children's play equipment our site is of sufficient size to address that need. Furthermore, the site boundary is not within 300m of a listed building.

- 2.36. So, the simple fact is that BAY040 scores significantly more favourably against the Council’s assessment of settlement sustainability, contribution to the Black Country and indeed against all of the criteria tested within the SA.
- 2.37. As such, is remarkable that the Council have failed to have regard to their own evidence and reflect through the SA, the importance of accommodating growth, including the environmental benefits, of accommodating unmet need in the areas with the strong road and rail relationships with the Black Country.
- 2.38. Whilst not specifically considered within the updated addendum SA, we refer to the assessment of sites within Bayston Hill that have been considered by the Council, throughout the Local Plan process. To facilitate a comparison of the three sites considered within Bayston Hill, pertinent parameters pertaining to the subject site and each of the proposed allotted sites have been taken from the SA matrix.

Table 3: Comparison of Bayston Hill Sites

Criteria	Criteria description	BAY039	BAY050	BAY040
5	Site boundary within 480m of GP surgery	+	+	+
	Site boundary within 480m of a library	-	+	+
	Site boundary within 480m of outdoor sport	+	+	+
	Site boundary within 480m of amenity green space	0	+	0
6	Site boundary within 480 m of public transport	-	+	+
15	Site is wholly classified as low landscape sensitivity for residential or site is inside the development boundary	0	+	0
Overall score		FAIR -4	Good -1	Good -3

- 2.39. This is clear evidence of inconsistencies within the SA and the lack of justification for seeking to allocate sites that perform significantly more poorly against the Council’s own assessment than my clients land at Bayston Hill.
- 2.40. It is clear from the above, that the Council have no justification for allocating BAY039 and BAY050 over BAY040. As a minimum BAY040 should be considered in the mix for accommodating some of the Black Country’s unmet need in light of the position stated above with regard to the sites identified by the Council to make a contribution.

3. Have any concerns been raised about the updated SA methodology and what is the Council’s response to these?

- 2.41. It is clear from the Regulation 19 consultation responses received, and the responses to the additional consultation on the Updated Addendum Sustainability Appraisal that

there have been a range of concerns raised about the SA. Indeed, as confirmed in the 'Response to Regulation 19 Consultation' Report and the 'Response to the Additional Consultation' Report it is apparent that a number of respondents have raised concerns relating to the SA.

4. Have the requirements for Strategic Environmental Assessment (SEA) been met?

- 2.42. No. We do not consider that the Sustainability Appraisal has been prepared in accordance with the SEA regulations. In particular reasonable alternatives, which include additional sites in sustainable settlement such as Bayston Hill, capable of early delivery to meet housing need as it occurs and existing unmet need `have not been appropriately assessed.
- 2.43. We consider that the Sustainability Appraisal process is totally flawed, to the extent that it is unlawful, as it does not meet the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 ("the SEA Regulations"). There has been a failure to consistently and robustly consider reasonable alternatives contrary to Regulation 12 and Schedule 2, paragraph 8.

Habitat Regulations Assessment

5. What is the latest position in relation to nutrient neutrality and are there any outstanding objections from Natural England or the Environment Agency to the Plan proposals? If so, what are these and how is the Council working to overcome them?

- 2.44. No response.

6. Is the Local Plan's approach to nutrient neutrality justified, effective and consistent with the National Planning Policy Framework (the Framework) and the requirements of HRA?

- 2.45. No response.

Plan Period

7. Is the Local Plan period of 2016 to 2038 consistent with national policy? If not, is there justification for this?

- 2.46. In line with paragraph 22 of the Framework, strategic policies should anticipate and address longer-term needs and opportunities over a minimum of 15 years after adoption.

- 2.47. Since the proposed Local Plan only extends until 2038, the Plan duration needs to be extended by at least two more years in order to meet the minimum 15-year requirement. This is presuming that the Plan is capable of being found sound and adopted in 2025.
- 2.48. This would require the identification of an additional two years-worth of housing land.
- 2.49. The need to extend the plan period is not something that the Council should seek to avoid on the basis of the likely need for an 'immediate review' in light of the forthcoming national planning policy changes.



 **Marrons**

Certified



Corporation



Think before you print