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Planning Department
Rugby Borough Council
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Ref: 6320CA.L003

Date: 16 May 2025

Dear Sir/Madam,

Regulation 18 Draft Rugby Local Plan March 2025 – Representations on behalf of Brandon Estates

Introduction

DPP Planning is instructed by Brandon Estates to make representations on the Regulation 18 Draft Rugby Local Plan which was published by Rugby Borough Council on 24th March 2025.

Brandon Estates have a controlling interest in the former Coventry (Brandon) Stadium site which was considered in the Housing and Economic Land Availability Assessment (HELAA) undertaken in March 2025 (Site Reference 34 refers).

This letter addresses the proposed policies and supporting evidence of the Regulation 18 Draft Local Plan that has been prepared by Rugby Borough Council against the soundness tests required for Local Plan formulation. These representations assess the Reg 18 Draft Local Plan in accordance with legal and procedural requirements and consider whether it is 'sound' (paragraph 36 of the National Planning Policy Framework ('NPPF') December 2024).

Policy Context

The Regulation 18 Draft Local Plan is the first iteration of the Plan, and it will likely be subject to further refinement prior to submission for examination. However, considering the soundness tests from the outset of local plan formulation is important to avoid unnecessary changes being required at later stage of the plan-making process.

Paragraph 36 of the NPPF states that plans are sound if they are:

- a) *Positively prepared – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;*
- b) *Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;*
- c) *Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by a statement of common ground; and*

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- d) *Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework and other statements of national planning policy, where relevant.*

In addition to the soundness tests outlined in NPPF, Rugby Borough Council area includes the Birmingham Green Belt Designation. In relation to the plan-making process NPPF notes under paragraph 145 *“Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation or updating of plans. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.”*

Prior to concluding exceptional circumstances apply to warrant green belt release through strategic policies, Local Planning Authorities (LPAs) should demonstrate that all other reasonable options have been examined for meeting the identified need which takes account of the following:

- a) *makes as much use as possible of suitable brownfield sites and underutilised land;*
- b) *optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and*
- c) *has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground. (NPPF, para. 147, 2024)*

Paragraph 148 of NPPF notes that *“Where it is necessary to release Green Belt land for development, plans should give priority to previously developed land, then consider grey belt which is not previously developed, and then other Green Belt locations.”*

At this stage in the plan-making process it is considered appropriate to also have regard to NPPF paragraph 24 which notes *“Effective strategic planning across local planning authority boundaries will play a vital and increasing role in how sustainable growth is delivered, by addressing key spatial issues including meeting housing needs, delivering strategic infrastructure and building economic and climate resilience.”* The NPPF goes on to state that *“Effective strategic planning across local planning authority boundaries will play a vital and increasing role in how sustainable growth is delivered, by addressing key spatial issues including meeting housing needs, delivering strategic infrastructure and building economic and climate resilience.”*

Housing Requirement and Land Supply

The LPA have produced a Development Needs Topic Paper published in March 2025 which summarises the identified need for future development in the LPA based on:

- The Coventry and Warwickshire Housing and Economic Development Needs Assessment 2022 (HEDNA)
- The West Midlands Strategic Employment Sites Study 2024 (WMSESS)
- The Coventry & Warwickshire HEDNA - WMSESS Alignment Paper 2024 (Alignment Paper)

In terms of housing need, the reports above have been used to conclude Rugby Council has a need for 12,978 new homes between 2024 to 2045. It is identified the existing supply which could be carried forward into the emerging local plan is 10,796 homes, accounting for a 10% reduction in supply for unallocated sites which do not come forward. This results in a residual need of 2,831 homes (5% buffer) to 3,480 homes (10% buffer).

It is unclear from the above and the associated HEDNA, how the housing requirement has been informed by neighbouring authorities and the ‘duty to cooperate’. The HEDNA report notes that *“Plan making activities should therefore continue to recognise overlaps in North Warwickshire and Stratford-on-Avon with the Birmingham HMA and FEMA; **between Rugby and West Northamptonshire** [DPP emphasis]; and local links across the A5 with Hinckley and Bosworth (which is in Leicestershire).”*

The published HEDNA does not expand further upon the potential implications of cross boundary market issues between Rugby and West Northamptonshire. It is also unclear how this has been addressed in the current housing requirement. Therefore, based on the evidence provided in support of the Regulation 18 Draft Local Plan, the Council have not demonstrated how the strategic policies have addressed key matters such as housing across local planning authority boundaries.

Without consideration of the potential additional housing requirements from neighbouring authorities the draft local plan is not able to demonstrate compliance with soundness tests (a) positively prepared and (c) effective.

Draft Policy S2: Strategy for Homes

Brandon Estates object to the principle of this policy in its current form. We consider the draft policy is unsound on the basis that it does not fully comply with the duty to cooperate as outlined above. It is unclear how the Council have considered the duty to cooperate in determining the housing requirement figure for the new plan period, as the housing need is currently focused on Rugby, and does not consider the housing need of neighbouring authorities.

The housing need for the Borough is established in the Development Needs Topic Paper. In line with Paragraph 62 of the NPPF, the Topic Paper sets out the housing need within the Borough over the plan period as 12,978 homes.

It is our understanding that progress was previously made towards a Warwickshire Plan Area, and a south Warwickshire local plan is still being pursued by Stratford on Avon and Warwickshire councils, while Coventry has been realigned with the Birmingham Mayoral Area. These changes could result in further housing needs being identified as the emerging plans within the wider area progress alongside the Rugby Council Plan. In addition, the background evidence which informed the draft requirement references the potential cross boundary considerations between Rugby and West Northamptonshire, which have not been considered further in the published evidence. Consequently, the emerging plan and the subsequent housing requirement identified in draft Policy S2 should demonstrate how the housing needs of neighbouring LPAs have been considered to ensure the Plan is sound. This is particularly important given there is now an even greater emphasis in the NPPF on the duty to cooperate, as set out at Paragraph 24.

Brandon Estates object to the principle of the overall housing strategy as drafted in Policy S2. The draft policy is considered unsound, in direct contradiction of national planning policy, as it prioritises Green Belt release over the use of previously developed land. The Regulation 18 plan identifies several allocations which require Green Belt Release while at the same time overlooking sites on previously developed land and 'grey-belt' land. The Regulation 18 plan is not supported by a published Green Belt Review evidence document; however, the following is noted within the published Site assessment:

"A draft Green Belt study was commissioned to provide an update on the current condition and contributions made by parts of the Green Belt. Owing to changes in Government Policy in Green Belt additional work will be required to finalise this as part of an evidence base. However, land which is included in the Green Belt has been noted, and the potential for strong contributions also noted. Planning judgement has been applied in identifying locations which are likely to be particularly sensitive in Green Belt terms, applying the purposes of the Green Belt. This commentary is preliminary and remains subject to the findings of the Green Belt study."

The regulation 18 Plan has been progressed without the evidence referred to in the Site Assessment being published. Therefore, without this information to support the draft Local Plan it would not be able to demonstrate the strategy meets soundness test (b) justified.

Where it is necessary to release Green Belt land, the NPPF directs LPAs to prioritise land for development that is identified as previously developed land, then consider grey belt land, which is not previously developed, and then other Green Belt locations having considerations to areas which can demonstrate they are sustainable locations.

As an example, the Site known as Coventry Stadium (HELAA Site Reference 34) would represent a site which, in accordance with the priority order set out in the NPPF, should be considered ahead of a number of the sites included in the draft plan. In considering the appeal against refusal of planning permission (Appeal Ref:

APP/E3715/W/23/3322013), the Inspector confirmed that the site represented previously developed land and its redevelopment would not result in any encroachment into the countryside. The Inspector went further stating:

“The Green Belt in this location does not have a role in preserving the setting and special character of historic towns so that the appeal proposal would not conflict with this Green Belt purpose. Finally, the appeal scheme would involve the regeneration of a brownfield site and would contribute positively towards the purpose of assisting regeneration and assisting the recycling of derelict and other urban land in the West Midlands. In summary, the appeal scheme would therefore not offend any of the Green Belt purposes.”

The Inspector went on to conclude that:

“the proposed development would not form inappropriate development in the Green Belt, would not have a greater impact on openness than the existing development on the site and would not conflict with any of the Green Belt purposes. Accordingly, the proposal complies with section 13 of the Framework which seeks to protect the Green Belt.”

It is clear, therefore, that following the ‘cascade’ of priorities for the location of residential development, the Site known as Coventry Stadium (HELAA Site Reference 34) should be considered ahead of a number of those sites which have been allocated in the draft Local Plan which are located within the Green Belt.

The draft local plan discounted the site as unsuitable concluding it is a “unsuitable location remote from settlement and loss of sports provision”. However, this contradicts the wording of the Council’s recent sustainability appraisal which notes that housing could be feasibly considered on part of the site.

It is clear from the example of Coventry Stadium that the Council have progressed a strategy which priorities greenfield green belt release over previously developed land and grey belt land. Such an approach is inconsistent with NPPF paragraphs 145 to 147 and, therefore, Policy S2 cannot demonstrate it meets soundness test (d) consistent.

Draft Policy S6: Residential Allocations

Following our representations on Draft Policy S2 above, we object to draft Policy S6 on the basis that it is unsound. As set out above, the Regulation 18 Plan does not sufficiently evidence the justification for the release of Green Belt land for housing above preferable brownfield and ‘Grey-Belt’ sites.

Within the Regulation 18 Plan, there are three sites which have been allocated for partial green belt release that are within the current green belt designation and where the Stage 2 Site Assessment confirms that they are located entirely within the Green Belt, potentially making a strong contribution to at least one purpose. These sites are:

- Land South of Brinklow (340 houses)
- Land South of Leicester Road, Wolvey (60 houses)
- Land West of Fosse Way, Stretton (40 houses)

There are a further 10 sites which are currently situated within the Green Belt and are completely allocated for Green Belt release. Of these, 9 sites are noted within the Stage 2 Site Assessment as lying entirely within the Green Belt, having the potential to make a strong contribution to at least one Green Belt Purpose. These sites are:

- Lea Crescent, Newbold (20 houses)
- Land at Long Lawford (400 houses)
- Land south of Coventry Road, Long Lawford (183 houses)
- Home Farm, Brinklow (25 houses)
- Land at Coventry Road, Wolvey (500 houses)
- Land North of the B4109, Wolvey (150 houses)
- Dyers Lane, Wolston (15 houses)
- Land north of Plott Lane, Stretton-on-Dunsmore (105 houses)
- Land East of Fosse Way Opposite Knob Hill, Stretton-on-Dunsmore (3 houses)

The following site is noted within the Stage 2 Site Assessment as lying mostly within the Green Belt, likely making a strong contribution for at least one purpose:

- West Farm, Brinklow (65 houses)

The above confirms that there 13 proposed allocations situated within the existing Green Belt, resulting in an increase of up to 2,246 houses on Green Belt land with the majority identified as making a likely strong contribution to Green Belt designations. In all the instances highlighted above it is unclear why these sites were taken forward as the Council has not yet published an updated Green Belt Review as part of their strategy evidence base. We are unable to comment on the reasons for these sites being released from the Green Belt and allocated for residential development prior to the publication of the evidence to outline the exceptional circumstances which justify such changes to the Green Belt.

We contend that these sites should be reassessed for allocation against other previously overlooked brownfield and 'Grey-Belt' land. The Council need to demonstrate that they are confident they have examined fully all other reasonable options for meeting its identified need for development prior to releasing any Green Belt land. This is primarily through reusing brownfield land, underutilised sites such as so-called 'Grey-Belt' land, uplifting densities within urban areas, and underused land in any other locations well served by public transport, in line with Paragraph 147 of the NPPF.

While the above sites are allocated for residential development in the existing Green Belt, other arguably preferable sites have been discounted which constitute previously developed land, which following the cascade are preferable for development. One such site is our client's site, at the former Coventry Stadium, which was found at appeal (Ref: APP/E3715/W/23/3322013) to be considered previously developed land, the redevelopment of which would not offend any of the five Green Belt purposes, in line with Section 13 of the NPPF. Therefore, the former Coventry stadium site should be given appropriate weight in its consideration for housing and be considered further for allocation.

The Council's Sustainability Appraisal sets out at Paragraph 5.4.27 that an element of facilitating housing at the former stadium site (Site 34) 'could feasibly be explored'. The draft Plan does not take account of this suggestion in its own evidence base. The Council's HEELA sets out that the stadium site was discounted due to being an unsustainable location remote from settlement, along with the loss of sports provision. We disagree with the Council's assessment of the site, given it is accessible via public transport and that there is currently no viable sports provision on the site.

Draft Policy W1: Protection of Community Facilities

We object to Policy W1 on the basis that the policy is unsound and inconsistent with national policy.

Draft Policy W1 relates to the protection of community facilities yet seeks to apply national guidance on the protection of sports facilities. Policy W1 sets out a criteria-based policy for the consideration of the loss of existing community facilities, drawing on NPPF Paragraph 104. Instead, Policy W1 should relate to NPPF Paragraph 98 which explicitly relates to "social, recreational and cultural facilities". Criterion c) of Paragraph 98 states that planning policies should:

"guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs".

Draft Policy W2 relates to the open space and sports provision. It is this which the Council should be applying Paragraph 104. As such, we contend that draft Policy W1 is inconsistent with national planning policy meaning the approach is not justified.

As a result of the failure to correctly apply Paragraph 98, Policy W1 fails to define which 'community facilities' are considered 'valued', instead at Paragraph 7.2 it lists a number of specific "sports facilities".

Policy W1 explicitly refers to Coventry Stadium as being treated in a different way to other facilities but fails to set out why this is the case. Brandon Estates contend that Coventry Stadium has never acted as ‘community facility’ which by definition *“seeks to enhance the sustainability of communities and residential environments”*.

Brandon Estates conclude, therefore, that Draft Policy W1 should be amended to reflect Paragraph 98 of the NPPF not Paragraph 104. Policy W2, which relates to Open Space and Sports Provision is the correct policy against which the requirements of NPPF Paragraph 104 should be applied. At present, Draft Policies W1 and W2 read as interchangeable, which is inconsistent with national guidance.

In addition to the failure to reflect the correct element of national guidance, Part B of the draft policy establishes separate criteria for the consideration of the development potential of the former Coventry Stadium, outlining that planning permission will not be granted for any development proposal which does not support the restoration of the stadium for speedway and stock car racing. The NPPF does not allow for a specific facility to be treated outside of the criteria based policies. A preference for retention can be stated, but a failure to include criteria against which this will be considered is contrary to national guidance. Indeed, this approach is accepted by draft Policy W2 which states that: *“National policy on the protection of existing open space, sports and recreational buildings and land, including playing fields, will be applied.”*

The draft Local Plan fails to justify the identification of Coventry Stadium as a ‘community facility’ which cannot be redeveloped. As such, Policy W1 must include criteria for the redevelopment of Coventry Stadium.

Regarding the Council’s proposal to identify Coventry Stadium as a community facility in planning policy terms, in May 2016 the site was put forward as an asset of community value, but the Council rejected the application. Whilst it is acknowledged that assets of community value relate to a different legislative framework than the Town and Country Planning Act, it nonetheless provides a helpful indication of the ‘value’ such facilities provide to the community in which they are located. The site has lain derelict since 2016, meaning it cannot be said, that the former stadium is a ‘valued’ facility, the loss of which has meant that the community has not been able to “meet its day-to-day needs”. Brandon Estates conclude that Coventry Stadium cannot be defined as a community facility for the purposes of Policy W1.

Whilst Brandon Estates contend that reference to Coventry Stadium should be removed from Draft Policy W1, should it remain, it needs to be acknowledged that the Council’s Local Plan Sustainability Appraisal sets out at Paragraph 5.4.27 that an element of facilitating housing at the site ‘could feasibly be explored’. The national requirement for a plan to be positively prepared would see the Policy W1 make provision for the possibility that the site could come forward in a number of ways, meeting a number of policy objectives.

As drafted, the separate treatment of the former Coventry Stadium as set out in Policy W1 is inflexible and is not based on robust and credible evidence on the operation of the stadium site. Moreover, as currently drafted, the reference to the former Coventry Stadium would prevent positive planning to meet the objectively assessed housing needs of the Borough. Therefore, it is requested that Part B of Policy W1 is removed, and that the facility is treated equally in alignment with national policy.

Draft Policy W2: Open Space and Sports Provision

As set out above in relation to Draft Policy W1, Draft Policy W2 should include reference to the criteria against which the loss of open space and sports facilities should be considered. Whilst the current draft states that *“National policy on the protection of existing open space, sports and recreational buildings and land, including playing fields, will be applied.”*, Brandon Estates contend that the inclusion of the criteria under NPPF Paragraph 104 in Draft Policy W1 is the wrong and results in a misalignment of national policy creating conflict between the two draft policies. Brandon Estates contends that Policy W2 is the correct policy to address the loss of open space and sport facilities which would appropriately reflect the approach provided in NPPF.

Conclusion

For the reasons set out in this letter, it is considered that the Rugby Borough Council Draft Local Plan Preferred Options Consultation Document is unsound and fails to meet the necessary legal and procedural requirements.

The Draft Local Plan does not meet the soundness tests set out in Paragraph 36 of the NPPF (December 2024) and we contend would be considered unsound at examination if progressed in its current form.

It is considered that the Draft Local Plan has failed to justify that the housing requirement meets the needs of Rugby Borough and does not appropriately consider available brownfield land for housing delivery. Brandon Estates also contend that Draft Policy W1 is inconsistent with national policy and is unjustified.

We welcome any opportunity to participate in any further hearing sessions or public consultations as part of the plan making process within Rugby Borough. We would be grateful if you could confirm receipt of these representations.

Yours faithfully,

