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6 August 2016

Dear Mr Barwell

## **THE BIRMINGHAM PLAN –MODIFICATION OF PLAN TO SAVE THE GREEN BELT**

CPRE Warwickshire writes to ask you to use the Secretary of State's power to modify the Birmingham Plan to delete the proposed allocation GA5 (Langley Sustainable Urban Extension) from the Plan before it is adopted by the City Council.

We also request that while you indicate support for the Plan Policy PG1 (Overall levels of growth) which is to provide 51,100 dwellings in the City, you should indicate to the City Council that this housing requirement can be met without allocation of Green Belt land for the Langley Urban Extension, by

- (a) increasing the number of dwellings expected to be provided through windfall development, and
- (b) bringing more empty properties back into use within the City.

CPRE believes that there is adequate information in the evidence base considered by the Examination to allow you to conclude that (a) the windfall allowance in the Plan is low compared to past windfall delivery and housing in the city, and (b) the Plan underestimates the number of empty properties which can be brought back into use in the Plan Period to 2031.

Taken together we believe that the Plan underestimates housing delivery in the existing urban area by up to 10,000 dwellings – 7,500 windfalls and 2,500 empty units brought back into use.

The Plan can thus deliver more than the aimed-for 51,100 dwellings up to 2031 without needing the release of any Green Belt at Langley in the period to 2031.

The Secretary of State made clear in the Commons on 18 July (Oral Questions col 544) that, "The green belt is absolutely sacrosanct..... The green belt remains special. Unless there are very exceptional circumstances, we should not be carrying out any development on it."

Should you have concerns about whether the housing proposed in the Plan can be delivered without loss of some Green Belt, we would ask you to include in Modifications provision for a Plan Review to be commenced by 2021 and the statement that Green Belt release should not be considered before that Plan Review. This is the proposal of Andrew Mitchell MP, and we have already written setting out our support for that modification in our letter dated 12 April 2016 which he forwarded to your predecessor James Wharton. We attach a copy of that letter and attachments.

The detailed case for a Modification is attached, along with a map showing the area affected.

Yours sincerely

[REDACTED]

cc Andrew Mitchell MP

## **THE CASE FOR MODIFYING THE BIRMINGHAM PLAN**

*CPRE Warwickshire – July 2016*

### **1. Process**

1.1 The Secretary of State can direct the local planning authority to modify a local development document if he thinks that it is unsatisfactory. He must give his reasons for doing so. (Planning & Compulsory Purchase Act 2004, Section 21(1)).

1.2 The local planning authority must comply with the direction and must not adopt the document unless the Secretary of State gives notice that he is satisfied that they have complied with it. (Section 21(2))

1.3 The Secretary of State has intervened to issue a temporary direction not to take any step in connection with the adoption of the document while he considers the Plan. (Section 21A(1)) This direction was issued by the Secretary of State in a letter from Brandon Lewis, then Minister of State, to the Birmingham City Council on 26 May 2016. (copy attached)

1.4 Sections 21 and 21A of the 2004 Act, as amended by Section 145 of the Housing & Planning Act 2016, are attached for reference.

### **2. Modification requested**

2.1 CPRE Warwickshire requests that the Secretary of State directs a modification to the Birmingham Plan to delete the proposed allocation GA5 (Langley Sustainable Urban Extension) from the Plan and directs a change to the Policies Map to retain the area shown on the Policies Map as GA5 in the West Midlands Green Belt. (A4 reduced size colour version of Policies Map attached.)

2.2 It is also requested that the Secretary of State in issuing his Modification indicates his support for the Plan Policy PG1 (Overall levels of growth) which is to provide 51,100 dwellings in the City, and asks the City Council to make any necessary detailed changes to the wording of the Plan to make clear that the proposed number of dwellings will be delivered within the existing urban area.

2.3 The reason that the Secretary of State is requested to give for this conclusion is that the housing numbers in that Plan can be met without allocation of Green Belt land for the Langley Urban Extension, by

- (a) increasing the number of dwellings expected to be provided through windfall development, and
- (b) bringing more empty properties back into use within the City.

### **3. Location**

3.1 The location of the proposed 6,000 house Langley Sustainable Urban Extension is shown edged in black on the 1:25,000 OS Map extract produced by CPRE Warwickshire for the Examination held in 2014 (attached). The location is shown in grey surrounded by a dotted black line on the Birmingham Plan Policies Map, on the north-east periphery of the city (attached).

#### **4. Details (1): Windfall allowance understated in Plan**

4.1 The National Planning Policy Framework (NPPF) states at para 48 (section on housing) that ‘Local Planning Authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply.’

4.2 The Inspector in his report (published in April 2016) examines the windfall assumptions, drawn from the SHLAA (Strategic Housing Land Availability Assessment), in the Birmingham Plan at his para 58 on page 14. He concludes that they are conservative; the annual allowance built into the Plan is less than a quarter of pre-2008 rates:

Alongside the identified sites, the 2014 SHLAA includes a windfall allowance for some 7,600 dwellings over the remainder of the BDP period. This figure is based on an annual allowance that is initially set some way below the lowest windfall completion rates of recent years, and then increases gradually over the period to reflect the expected recovery in the housing market. Nonetheless, the maximum annual allowance is less than a quarter of the highest level experienced before the 2008 financial crisis. The calculation of the allowance specifically excludes development of residential gardens. I am satisfied therefore that the overall windfall allowance is based on sound evidence and is realistic and achievable. Indeed, in practice it is likely to be exceeded.

4.3 The Inspector has thus concluded that the windfall allowance is low and likely to be exceeded.

4.4 The degree to which the Plan underestimates windfalls is shown in the SHLAA. The SHLAA describes the potential of windfall sites in the City at paras 8.1-8.16 at pages 20-22 and in more detail at Appendix 5, Windfall Assumptions Paper’, at pages 42-52.

4.5 Para 8.4 states that Birmingham ‘has a long and impressive track record in delivering windfall sites’, with 67% of all completions during the UDP (1991 to 2011) coming forward as windfalls. Between 2001 and 2014 some 18,500 windfall dwellings were completed, over 1,400 per year.

4.6 By contrast, for the Birmingham Plan the windfall allowance for the future has been set at a conservative level. Para 8.10 states that the Plan assumes that only 40-50 dwellings per year will come forward on small sites (less than 0.06 ha) up to 2024 and then at a rate of 75 per year. Para 8.14 states that for large sites (above 0.06 ha) the rate is taken as 300 dwellings per year in first five years, rising to 500 per year after 10 years. (See table in the SHLAA at page 24.) This is admitted to be conservative, related to difficult economic circumstances of the recent recession. Para 8.15 states, “It is anticipated that the windfall assumptions will be significantly exceeded as conditions improve.”

4.7 A further source of windfall dwellings that has not been counted in at all is the new facility to convert offices to residential use requiring only prior notification, not planning permission. Para 8.16 states that in 2013/14 over 150 of such conversions were notified to the City Council. This rate of conversion would deliver a further windfall volume of some 2,000 dwellings up to 2031. (The ability to convert office floorspace to residential in this way has now been made permanent.)

4.8 Appendix 5 of the SHLAA gives more detail of the scale of windfall permissions and completions in Birmingham. While garden land is now not counted as previously-developed land and is excluded from the assumption of windfall capacity, nevertheless the rate of delivery has been high until the recession that started in 2008. The numbers of windfall permissions vary considerably

from year to year. The conclusion in the SHLAA Appendix 5 is that ‘As the economy improves and the housing market becomes stronger, the number of windfalls coming forward will increase in number’; and that ‘windfalls will continue to make a significant contribution to delivering housing in Birmingham.’ (para 8.1 page 48). At para 10.4 (page 50) the document concludes, ‘The windfall assumptions remain conservative when compared to actual performance’.

4.9 The SHLAA is clear in its presentation of evidence that the windfall housing assumptions in the Plan are conservative and likely to be exceeded. Therefore the Secretary of State is requested to conclude that the windfall allowance in the Plan is too low and that double the assumed number of new dwellings through windfalls can be expected to be delivered up to 2031, that is 14,000 in total across the city; an additional **7,500** dwellings between 2014 and 2031.

## **5. Details (2): Contribution from bringing empty properties brought back into use underestimated in Plan**

5.1 The Inspector in his report describes the way in which the Plan makes an allowance for bringing empty properties back into use, at his para 59 on page 15. (These are quite different from windfalls which comprise new dwellings or conversions.) While he notes that over 200 empty homes are being brought back into use annually, he states that the allowance is only 800 in the whole Plan period:

Finally, the 2014 SHLAA makes a modest allowance of 800 additional dwellings from the Council’s Empty Homes Strategy. There is clear evidence that the Strategy has succeeded in bringing well over 200 long-term empty homes back into use each year since 2011. The allowance of 800 assumes that 200 more will have been brought back into use each year until 2018, when current funding for the Strategy runs out. That is a realistic assumption.

5.2 The Inspector calls this number of 800 dwellings ‘modest’. Despite this, he has accepted that the Empty Homes Strategy will not continue after 2018, so that no more than 800 such dwellings are brought back into use – none over the 12 years 2019 to 2031. No reason is given for the assumption that the City Council’s Empty Homes Strategy will not continue, or that no funding is likely after 2018 when it is evidently a successful programme. Continuation of the programme at a rate of 200 annually would deliver up to 2,500 more dwellings up to 2031 than the Plan currently provides for.

5.3 The SHLAA describes the policy and the numbers at paras 8.17-82.3 on pages 22-23. Para 8.20 states that the headline target is 200 properties a year during 2013-18. It states that ‘Only the period for which funding is in place has been included in the SHLAA. If the empty homes strategy is extended, with funding in place, this will be reflected in future reviews of the SHLAA’.

5.4 Para 8.23 lists the number of vacant properties in the City brought back into use as 260 in 2011/12, 258 in 2012/13, and 275 in 2013/14. This indicates that the plan’s allowance of 800 is very low and that the above suggested further number that could be returned to use between 2019 and 2031, 200 per year or 2,500 in all, may itself be conservative.

5.5 The Secretary of State is therefore requested to conclude that the Plan is too conservative about the number of empty properties that will be brought back into use; that the Inspector underestimates the scope and scale of the contribution that restoring empty properties to use can make to meeting the housing requirement.; and that an increased number of dwellings of the order of **2,500** up to 2031 can be expected to be delivered through this means.

## **6. Conclusion on the Plan's housing requirement**

**6.1 The Secretary of State is requested to conclude that the housing supply within the urban area is underestimated in the Plan; that the numbers to be delivered through windfalls will be some 7,500 higher than the Plan anticipates; and that the number of empty properties that will be returned to user by 2031 will be substantially higher, some 2,500 more than the Plan assumes.**

**6.2 The increased number of dwellings of 10,000 by these two means of delivery would exceed the number proposed at Langley (6,000 new houses on Green Belt land, 5,000 of these by 2031) by a significant amount. The amount of housing that can be delivered by increased windfall permissions and increased restoration of empty properties to use would be 4-5,000 more than the Langley Sustainable Urban Extension would deliver, so increasing total housing that can be expected to be delivered in the period of the Plan without the need to remove land from the Green belt.**

**6.3 Consequently the Secretary of State is requested to determine that**

- exceptional circumstances have not been demonstrated to change the Green Belt boundary at Langley**
- the Langley Sustainable Urban Extension is not required to deliver the Plan's proposal for 51,100 additional dwellings up to 2031**

**and to direct a modification to the Plan to delete Policy GA5 and the allocation on the Proposals Map.**

Documents attached:

1. Letter DCLG (Brandon Lewis) to Birmingham City Council 26 May 2016
2. Planning & Compulsory Purchase Act 2004 Extract - Sections 21 and 21A
3. Birmingham Development Plan Policies Map (Colour, A4 reduced version)
4. CPRE Warwickshire map showing area east of Sutton Coldfield - areas proposed for development and removal from Green Belt (Scale 1:25,000 OS Map extract)
5. Birmingham Development Plan 2014 Submission Draft: contents page, page 28 (PolicyPG1, Overall Levels of growth), pages 48-51 (GA5, Langley Sustainable urban Extension)
6. Extract from the Birmingham Development Plan SHLAA (2014), Section on 'Unidentified supply' – Windfall Sites and Empty Houses (pages 22-25) and Appendix 5, Windfall Assumptions paper (pages 42-52).
7. Extract from Inspector's Report pages 14-15 (paras 58 and 59, quoted above)
8. CPRE Warwickshire letter to Andrew Mitchell MP (Sutton Coldfield) 12 April 2016, proposing modification to the Birmingham Plan and attaching extract from Hansard 26 January 2016 Adjournment Debate on Sutton Coldfield Green Belt). Passed by Mr Mitchell to Minister (James Wharton) in April 2016.
9. Hansard Extract 18 July 2016 Col 544 regarding Green Belt policy (*overleaf*)

HANSARD 18 July 2016 – Col 544:

## **Green Belt**

Extract from Oral Questions to Secretary of State for Communities & Local Government 18 July 2016 Col 544

**Mrs Theresa Villiers** (Chipping Barnet) (Con)

I warmly congratulate the Secretary of State on his appointment. Will he guarantee to the House that during his tenure as Secretary of State there will be no dilution whatever to the vital protections of the green belt?

**Sajid Javid**

I thank my right hon. Friend for her warm words. The green belt is absolutely sacrosanct. We have made that clear: it was in the Conservative party manifesto and that will not change. The green belt remains special. Unless there are very exceptional circumstances, we should not be carrying out any development on it.