

# Erewash Core Strategy Review

Examination Hearing Statement

Matter 1

Representations prepared by Fisher German LLP  
on behalf of Bloor Homes



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Spondon Woodside

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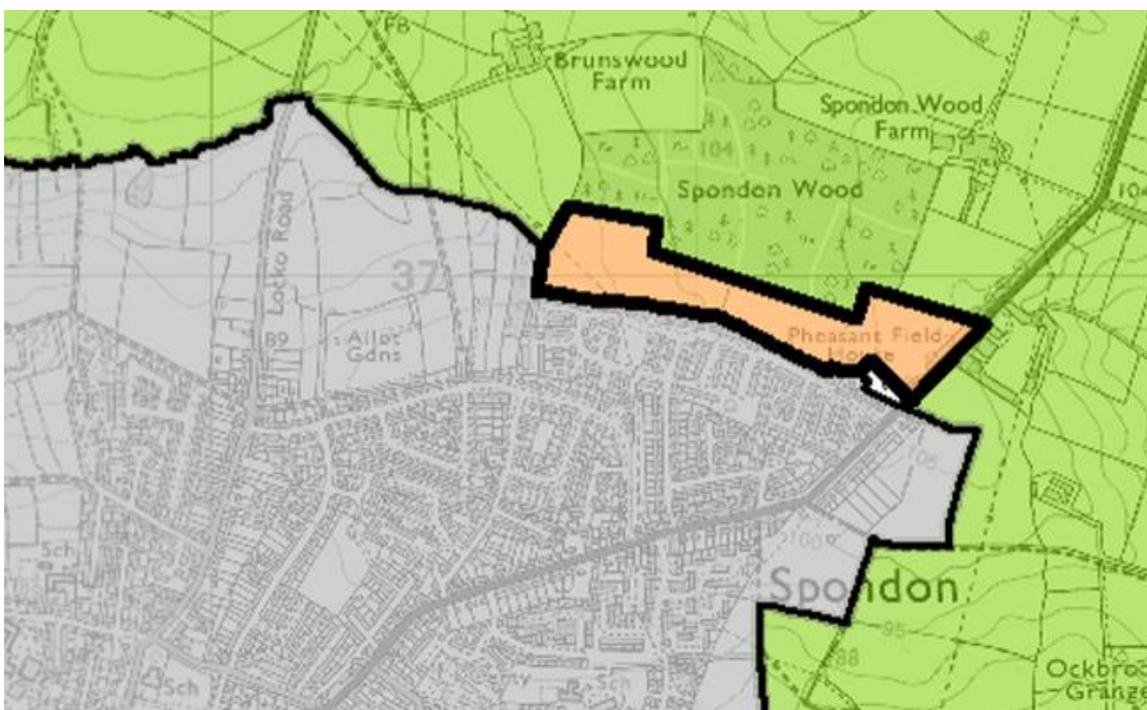
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# 01 Introduction

1.1 These representations are prepared by Fisher German on behalf of Bloor Homes East Midlands in respect of their land interests at Woodside, Spondon. The site is identified for release from the Green Belt and allocation within the submitted Erewash Core Strategy Review; Strategic Policy 1.4 – North of Spondon. The site is a proposed allocation of “around 200 dwellings”, with site specific criteria and identified on the supporting policies map, extract below.



**Erewash Core Strategy Review Policies Map Extract**

1.2 In September 2023 a full planning application on the proposed allocation site for 263 dwellings, associated landscaping, open space, infrastructure and enabling earthworks (application reference - 0923/0024) was validated by Erewash Borough Council. This application is currently awaiting determination, but clearly given the full nature of the application, and the site being under the control of a major housebuilder, it offers the opportunity to expedite delivery of homes on the site and assist the Borough Council in being able to demonstrate a five-year housing land supply.

1.3 The site is sustainably located adjacent to the Derby City Urban Fringe. It is well connected to existing services and facilities and can take advantage of existing public transport connections.

# 02 Matter 1: Procedural/ Legal Requirements

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

## Plan Preparation and Scope

### **1. Has the preparation of the Core Strategy Review been in accordance with the Local Development Scheme in terms of its form, scope and timing?**

- 2.1 The Council's latest Local Development Scheme (LDS) is the Erewash Borough Council Local Development Scheme Update (2021) (March 2021), prepared in accordance with Section 15 of the Planning and Compulsory Purchase Act 2004 (as Amended by the Localism Act 2011). The process undertaken by the Council is broadly in accordance with the LDS in respect of form and scope, albeit there has been slippage with regards to timing. The latter we find is normal and it is rare that a Plan is adopted in accordance with the timetable as set out in the relevant LDS.
- 2.2 In terms of form, the Council undertook two Regulation 18 consultations and a Regulation 19 consultation in accordance with the LDS. It is noted that this is more robust public consultation programme than is required by statute, and enabled residents and stakeholders additional opportunities to comment, including on revised site allocations. With regards to scope, the Council set out that the Core Strategy Review will be a Development Plan document, the geographical area of the Plan, the subject matter of the Plan and a timetable.
- 2.3 The LDS is therefore considered to comply with Section 15 of the Planning and Compulsory Purchase Act 2004 (as Amended by the Localism Act 2011). The preparation of the Plan is considered to have been prepared in accordance with the LDS, save for timetable slippage which is not uncommon in the preparation of Plans.

### **2. How did the Council engage with interested stakeholders on the allocation of land contained in Policy 1.4 of the Core Strategy Review? Was this appropriate?**

- 2.4 The Council have consulted appropriately and commensurately with all interested stakeholders. Particularly through the two statutory public consultations (Revised Options For Growth

Consultation – Regulation 18 and the Pre-submission Consultation – Regulation 19) which offered significant scope for comments from interested stakeholders). The level of response and local interest indicates strong engagement with these consultations and demonstrates that reasonable opportunity was provided to comment.

### **3. Has the preparation of the Core Strategy Review complied with the Statement of Community Involvement?**

- 2.5 S. 18(1) Planning and Compulsory Purchase Act 2004 sets out that local authorities must prepare a Statement of Community Involvement (SCI). S.18(2) of the aforementioned act states that an SCI is *“a statement of the authority's policy as to the involvement in the exercise of the authority's functions under sections 13, 15, 19, 26 and 28 of this Act and Part 3 of the principal Act of persons who appear to the authority to have an interest in matters relating to development in their area”*.
- 2.6 The Council's most recent Statement of Community Involvement (SCI), and the one which was applicable during the statutory phases of development of the Local Plan, was the Erewash Borough Council: Statement of Community Involvement (SCI) (December 2019).
- 2.7 The Council set out a programme of consultation methods, setting each out against the stages in Development Plan preparation, and whether that method of consultation should be utilised at each stage. This included updating the Council's website, providing documents for inspection, notification emails to stakeholders, media releases, public exhibitions, mobile public displays, presentations to stakeholders, updates via external publications. We consider the Council have met and in cases exceeded these requirements as far as we are aware.
- 2.8 Part 2.5 of the document sets out how the Council will consult, including a substantive list at Appendix 4. We are not aware of any failures by the Council in consulting this list.
- 2.9 In accordance with the above, as far as we are aware, the Council have met and exceeded the proposed actions as set out in the SCI, thus the Core Strategy Review has complied with the adopted document and thus S. 18(1) Planning and Compulsory Purchase Act 2004.

### **4. How does the Erewash Core Strategy Review relate to existing plans and how will they**

**be affected by the adoption of the Core Strategy (adopted Erewash Core Strategy and made Neighbourhood Plans**

2.10 Once adopted the Erewash Core Strategy Review will be read in conjunction with the existing Core Strategy, save for the 13 named policies explicitly superseded as set out at the end of the Core Strategy Review consultation document, including:

- Erewash Core Strategy Policy 2: The Spatial Strategy
- Erewash Core Strategy Policy 4: Employment Provision & Economic Development
- Erewash Core Strategy Policy 6: The Role of Local and Town Centres
- Erewash Core Strategy Policy 7: Regeneration
- Erewash Core Strategy Policy 12: Local Services & Healthy Lifestyles
- Erewash Core Strategy Policy 16: Green Infrastructure, Parks and Open Space
- Erewash Core Strategy Policy 20: Stanton Regeneration Site
- Erewash Local Plan Policy E5 - West Hallam Storage Depot
- Erewash Local Plan Policy T5 – Disused Transport Routes
- Erewash Local Plan Policy R1 – Recreational Trails
- Erewash Local Plan Policy R6 – Pewit Golf Course
- Erewash Local Plan Policy R8 - Water Recreation
- Erewash Local Plan Policy C1 – School Sites

2.11 The spatial strategy (Core Strategy Policy 2: The Spatial Strategy) for example is replaced by *Strategic Policy 1 – Housing*, which provides the new housing requirement and spatial settlement hierarchy of development for the Plan.

2.12 In respect of Neighbourhood Plans, legislation is clear at section 38(5) of the Planning and Compulsory Purchase Act 2004 that conflict between Development Plan documents is resolved in favour of the most recent document to become part of the Development Plan. Therefore, any conflict with Neighbourhood Plans would be resolved in favour of the Core Strategy Review until a Neighbourhood Plan review was undertaken. Whilst general conformity with adopted Development Plan documents (at the LPA tier) is a prerequisite for Neighbourhood Plans to pass the basic conditions test, such a requirement is not required for Local Plan soundness, as clearly when planning for the entire authority area, it is not appropriate to adopt an inconsistent approach and for strategic development needs to be impacted or otherwise impeded by a non-strategic plan.

## Sustainability Appraisal

**5. How has the Sustainability Appraisal (SA) informed the preparation of the Core Strategy Review at each stage? How has the SA been reported? Has the methodology for the SA been appropriate?**

- 2.13 Each key statutory stage of development of the Core Strategy Review that has been undertaken has been informed by an appropriate Sustainability Appraisal assessment, including the two consultations undertaken under Regulation 18 (Options for Growth – January-April 2020 and Revised Options for Growth – March-May 2021) and the Regulation 19 consultation (pre-submission - March-May 2022). The Council sought approval from Members in accordance with its constitution (Council Executive), with Members approving both the Consultation Documents, and also the requisite Sustainability Appraisals, which were provided to Members as formal papers for each Committee.
- 2.14 We consider the methodology for the SA to be appropriate, with initial scoping completed with the wider HMA, which was consulted upon in July 2019. From then, Erewash have managed the process of the SA due to the divergence from the wider HMA. The subsequent scoping was completed broadly in accordance with the initial scoping, save for some diversion to provide clarity, or to avoid including questions which would be irrelevant to the process in light of what is being tested (now in isolation from the wider HMA). As such we are satisfied the SA has followed an appropriate methodology , in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended).

**6. What options were considered through the SA for the following:**

- a. The overall scale of housing and other growth**
- b. The broad distribution of development across the Borough**
- c. Potential allocation sites**
- d. Policy approaches**

- 2.15 The SA process necessitates the testing of 'reasonable alternatives' to achieve relevant environmental, economic and social objectives. The scope of reasonable alternatives is however dependent on each authority, as what would be constituted as reasonable in one authority, may not be reasonable in another. Erewash is a relatively small authority, which is highly constrained by Green Belt. As such, this limits what may be considered as reasonable. Clearly if an option is entirely unacceptable, it cannot be reasonable, and should not require testing through the SA process.

- 2.16 Given the constrained nature of Erewash and the limited scope of the Review, the SA has focussed on the various growth options and the impacts of individual sites within that context.
- 2.17 The SA tested a range of growth options, but due to the obvious understanding that no single growth option could reasonably deliver the development requirements of Erewash, the SA process was used to order the 8 growth options to form a broad spatial hierarchy. This approach is sensible as it is agreed that no individual option was likely to be reasonably capable of forming a strategy for the Plan which both met its development needs in full and demonstrated a requisite 5-year housing land supply. This approach, combined with site assessment work (both within, and external to, the SA) provided a framework for site allocation selection to ensure the most sustainable sites were selected in order until development requirements were met.
- 2.18 The Council tested a range of potential housing sites through the preparation of the Plan (25 sites) which were considered to be reasonable for the purposes of SA testing. This work confirms that the proposed allocations all fall within the most sustainable 50% of sites assessed by the Council. Clearly, the Council uses its judgement to balance the SA outputs with wider planning and strategic issues, such as Green Belt, but it does demonstrate that the SA has helped to ensure that only the most sustainable sites have been allocated, despite these constraints.

## **7. What were the conclusions of the SA in relation to these options and how have they informed the preparation of the Core Strategy Review?**

- 2.19 The results of the SA informed a spatial hierarchy which was used as the starting point for the site allocation process. The Plan sets out a following hierarchy of growth options which form the spatial hierarchy proposed in the Plan.
- A. Growth within Long Eaton Urban Area (the conurbation)
  - B. Growth within Ilkeston Urban Area (the town)
  - C. Growth within the Rural Area (the villages)
  - D. New Settlements not in the Green Belt
  - E. Extension of the conurbations (including Derby City) into the Green Belt
  - F. Extension of the town into the Green Belt
  - G. Extension of the villages into the Green Belt
  - H. New Settlements in the Green Belt
- 2.20 The application of any such a hierarchy is dependent on available and suitable sites which, in this instance, has resulted in sites lower in the hierarchy being selected.

2.21 In relation to employment options, Option 2 was considered to be optimal through the SA testing, which provided for the protection of existing employment zones in Erewash, plus the allocation of new employment land at the Stanton Regeneration site. The strategy within the Plan reflects this approach.

#### **8. What are the overall conclusions of the SA?**

2.22 The broad conclusions of the SA highlight that the Plan has adopted a demonstrably sustainable strategy. In particular, with regards to selected housing allocations, which all are within the top 50% of sites assessed through the SA process.

2.23 In overall terms, it is noted that the Plan scores well in excess of +100, which confirms as a broad principle the Plan represents a sustainable solution to the requirements and constraints of Erewash over the updated Plan period and should be considered sound.

#### **9. How have the requirements of the Strategic Environmental Assessment Directive been met?**

2.24 The SA and submitted draft Core Strategy Review adhere to the requirements of Part 3 of the Environmental Assessment of Plans and Programmes Regulations (2004). In the context that the Core Strategy Review is more limited in its scope, the supporting SA is therefore also commensurate to the changes advocated by the Plan.

2.25 In this context, we are content that the SA explores both the likely significant effects on the environment in implementing the Plan, but also the impacts of reasonable alternative strategies and options; enabling Plan making to occur in a justified manner. Moreover, the report provides information taking account of current knowledge and methods of assessment, contents and level of detail in the Plan, the stage of the Plan and, due regard to the need not to duplicate assessment.

2.26 In this context we are content that the requirements of the Strategic Environmental Assessment Directive have been met.

## Habitats Regulations Assessment

### 10. How was the Habitats Regulations Assessment (HRA) carried out and reported and was the methodology appropriate?

- 2.27 The Conservation of Habitats and Species Regulations 2017 (as amended) (‘the Habitats Regulations’) sets out that the Council is required to assess whether the emerging policies would result in significant harm to the designated features of a European designated and protected site, which remains in force despite Brexit. The Council confirm that this work is entirely independent from the Greater Nottingham Strategic Plan and therefore should be considered in isolation in respect of proposals advanced by Erewash only.
- 2.28 Article 6 of the Habitats Regulations requires assessment where it may give rise to significant effects upon European sites under the following classifications/designations:
- Special Areas of Conservation (SACs);
  - Possible Special Areas of Conservation (pSAC);
  - Special Protection Areas (SPAs);
  - Potential Special Protection Areas (pSPA); and
  - Ramsar sites (wetlands of international importance)
  - Marine Conservation Zones (MCZ)
- 2.29 The Council correctly sets out that HRA is a staged process, and that if screening (stage 1) confirms that impacts of the Plan are unlikely to negatively impact any European sites, then it is not necessary to undertake further work. We agree with the Council’s approach and conclusions, in particular that no site, combination of sites, or cumulative impact from multiple/all sites, will have any demonstrable negative impact on a European protected site/s. Thus, further HRA testing is not required in order to demonstrate the soundness of the Plan in accordance with the Conservation of Habitats and Species Regulations 2017.

### 11. What was the basis for determining that an Appropriate Assessment was not required and is this a justified conclusion?

- 2.30 In accordance with the associated regulations, the HRA at screening stage need only test whether the impacts of the Plan or project is directly connected with, or necessary, for the conservation management of a European site or is likely to have a significant effect on a European site on its own or in combination with other proposals. In this context, the Council’s approach is reasonable, as is the conclusion that the delivery of the Plan’s allocations and policies are unlikely to negatively impact a European protected site. The relatively limited scale of growth proposed, combined with

the distance from protected sites and lack of obvious connectivity (through watercourses for example) from Erewash as a whole and its allocations strongly suggests that it is unlikely that the Plan would have an impact on protected sites and therefore an appropriate assessment is not required. We fully support this conclusion and consider it to be justified in light of the available evidence.

#### Other Matters

**12. Do the strategic policies look ahead a minimum of 15 years from adoption, to anticipate and respond to long term requirements and opportunities as required by paragraph 22 of the National Planning Policy Framework?**

- 2.31 It is likely that the Plan period will not meet the threshold of 15 years from adoption. However, precedent exists for such a departure in certain instances (see Bedford Local Plan 2030). The Core Strategy Review comprises, as the title suggests, a review of the existing adopted Core Strategy and impacts only limited areas of that Plan. Primarily, those areas related (constraining) the supply of housing. Given a 'lighter touch' Plan is being progressed with a key focus to boost the immediate supply of housing in the Borough, it is considered that a reduction to the 15-year period requirement post adoption is not as necessary as it would have been had an entirely new Plan have been progressed. Notwithstanding this, the Plan period can be modified by means of a main modification, so long as the additional development needs can be met, or is in the case of Bedford, there is a commitment to an early review. Both options are considered to be eminently more preferable than the Plan being found unsound for this reason only, which ultimately will only serve to prevent the delivery of much needed homes and frustrate economic growth in an Authority significantly constrained by Green Belt and therefore the provisions of Paragraph 11 of the Framework.

**13. Does the Core Strategy Review include policies designed to ensure that the development and use of land in the Borough contributes to the mitigation of, and adaption to, climate change in accordance with the legislation? If so, which?**

- 2.32 Yes, the Policies and allocation have been informed by a robust SA process, where the key tests include consideration of environmental sustainability specifically (as well as economic and social). Clearly environmental sustainability is intrinsically linked with climate change, thus given the SA has informed policy and site allocation choices, the Review can be considered to contribute to the mitigation of, and adaption to, climate change by definition. The SA demonstrates that all the sites allocated are in the top 50% most sustainable (NPPF definition) available sites, of which

environmental sustainability is an intrinsic element and the Plan as a whole scores in excess of 100, again pointing to its inherent sustainability.

**14. Has the Council had regard to the other relevant specific matters set out in Section 19 of the 2004 Act (as amended) and in Regulation 10 of the 2012 Regulations?**

2.33 Yes, it is evident that the Council has had regard for matters contained in the Act, in so far as it is appropriate having regard for the partial review nature of the Plan, i.e. the review must be read in context with the extant Plan, particularly for those areas which are not being reviewed or changed currently. For example, the Core Strategy and Core Strategy Review clearly identify the strategic priorities for the development and use of land in the authority's area (1B Section 19 Planning and Compulsory Purchase Act 2004 (as amended)). In both cases the Plans relate to the relative NPPF applicable (2a Section 19 Planning and Compulsory Purchase Act 2004 (as amended)). Similarly, the review has had due regard for the applicable requirements of Regulation 10 The Town and Country Planning (Local Planning) (England) Regulations 2012. This is particularly the case since the removal of the Lock Lane Sawley site from the Plan, which may not have been considered to be compliant with C(II) of regulation 10. We are satisfied that the Plan and its likely impacts of the Plan are consistent with the requirements of Section 19 of the 2004 Act (as amended) and in Regulation 10 of the 2012 Regulations.

**15. How have issues of equality been addressed in the Core Strategy Review to ensure that due regard is had to the 3 aims outlined in s149 of the Equality Act 2010 in terms of those who have a protected characteristic?**

2.34 We are satisfied that the proposals are compliant with the three aims outlined in s149 of the Equality Act 2010 in respect of those who have protected characteristics, and for completeness the remainder of S149 of the Equality Act.