



**Settlements and Countryside Local Plan (Part 2) for  
Daventry District  
Examination**

**Response by Daventry District Council**

**Matter 1: Legal Compliance and the Duty to Co-  
operate**

**Date: May 2019**

## 1. Introduction

- 1.1 This statement sets out the response of Daventry District Council (DDC) to the following issues and questions raised by the Inspector relating to Matter 1 of the examination into the Settlements and Countryside Local Plan (Part 2) for Daventry District.
- 1.2 References used in this statement (e.g. PSD06) relate to documents held in the Examination Library available on the Council's website on the [Local Plan Examination webpage](#)<sup>1</sup>.

## 2. Response of Daventry District Council to the specific issues and questions relating to Matter 1 – Legal Compliance and the Duty to Co-operate

### Issue

**Has the Plan been prepared with due regard to the appropriate procedures and regulations? Has the duty to co-operate on strategic matters been satisfied?**

### Questions

*In responding to these questions, the Council should identify and address specific concerns raised in representations.*

### **Consultation / Statement of Community Involvement (SCI)**

1. ***Has the Plan been prepared in accordance with the statutory procedures of the 2004 Act (as amended) and the associated regulations, including in respect of the publication and availability of documents, advertisements and notifications? Has the production of the Plan followed the SCI?***
- 2.1.1 The Regulation 22 Consultation Statement (PSD08) sets out how the Council has involved the community and other interested parties in the preparation of the local plan. It explains how the Council has complied with Regulations 18, 19 and 20 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and undertaken engagement in accordance with the Regulations.
- 2.1.2 Chapters 2, 4 and 5 set out details of consultation on the Issues and Options, Emerging Draft and Proposed Submission versions of the Local Plan respectively. Within each of these chapters, the Statement sets out who was invited to make representations (consultees) and how they were invited to make representations. It includes details of where electronic and hard copies of the plan and associated documents could be viewed and how comments should be made, in accordance with Regulation 35. All consultations lasted a minimum of six weeks to comply with section 113(4) of the Planning and Compulsory Purchase Act 2004 and Regulation 35(3)(b). Examples of

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<sup>1</sup> Local Plan Examination webpage: <https://www.daventrydc.gov.uk/living/planning-policy/part-2-local-plan/local-plan-examination/>

consultation materials, press releases and social media posts for each stage of Plan preparation are provided in the Appendices to PSD08.

2.1.3 The Statement of Community Involvement (SCI; PSD06) was reviewed and adopted in 2017. Chapter 3 of the SCI sets out details of the consultees and the key stages at which the Council will consult when preparing the local plan; Chapter 4 sets out the methods of engagement that will be used. PSD08 sets out the details of consultation undertaken throughout the preparation of the local plan which demonstrates that this was done in accordance with the SCI, thus complying with Section 19(3) of the PCPA 2001.

**2. *Were adequate opportunities made available for participants to access and make comments on the Plan and other relevant documents?***

2.2.1 Details of the arrangements for consultees to access the local plan and other documents is set out in PSD08 on pages 8, 19 and 26 in the sections headed “*How were people invited to make representations?*”. Dedicated local plan webpages included information about the plan and links to electronic copies of documents and evidence base. Hard copies of the plan, Sustainability Appraisal and comments forms were deposited at the Council’s offices, all libraries in the District and at a series of staffed exhibitions at each stage of consultation. Hard copies of the local plan were available to purchase. At Proposed Submission stage the deposited documents also included PSD03, PSD04, PSD05, PSD08 and PSD14. The website and notification emails and letters made it clear that comments could be submitted electronically and in hard copy.

2.2.2 At both Emerging Draft and Proposed Submission stages, the Council notified the town council and all parish councils about the consultation in advance and sent a copy of a poster that could be displayed on parish notice boards (copies of posters in Appendices F and I of PSD08).

2.2.3 Specific aspects of the plan and evidence base were subject to separate consultation, details of which are set out in chapter 3 of PSD08. The consultations on the settlement hierarchy and HELAA methodologies were open to all consultees, whilst others were more targeted and involved consultation with specific stakeholders.

2.2.4 Concerns have been raised by a number of representors regarding the process for engaging with the preparation of the Plan. The Council has responded to specific representations PS047/01, PS077/05, PS085/01 and PS085/05 in document PSD11, EXAM1B and EXAM1B; the paragraphs above explain the overall process for notifying and raising awareness about the Plan at the various stages. Two representors make specific comments about the process of designating Local Green Space (PS077/05, PS085/01 and PS085/05). LGS falls within the Parish Annex of the Plan (Chapter 11) and

was the opportunity for parish councils not preparing a neighbourhood development plan or at the very early stage of preparing one, to nominate green spaces for designation. The process of inviting nominations and assessing LGSs is set out in document BNE02 (Local Green Space Assessments) and paragraphs 3.11 (Issues and Options) and 4.7 (Emerging Draft) of PSD08. The onus was on parish councils to contact landowners to notify them of their nomination, however, where that was not possible, the District Council contacted them at Emerging Draft or Proposed Submission stages which provided them with opportunity to comment.

### **3. *Were representations adequately taken into account?***

2.3.1 Chapters 2 and 4 of PSD08 set out the main issues raised through the Issues and Options and Emerging Draft consultations. Chapter 4 sets out in a section titled “*How the representations were taken into account*” how the Council responded to the main issues at Emerging Draft stage. As set out in paragraph 1.10 of PSD08 the Council established a Local Plan Steering Group, which has received an overview of the representations submitted at the three consultation stages (Issues and Options, Emerging Draft and Proposed Submission). All representations were reported to Members at Strategy Group and Full Council.

2.3.2 The Emerging Draft Consultation Responses and Proposed Actions (FSD04-1) sets out in plan order further details of the comments made, the Council’s responses and actions. The changes that were carried forward to the Proposed Submission Plan are set out in the Composite List of Changes to the Part 2 Plan (FSD04-2).

### **Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA)**

#### **4. *What was the methodology used for the SA and was the approach appropriate? How and when was the process undertaken?***

2.4.1 Part 1 of the SA report (PSD03) sets out the methodology used to undertake the sustainability appraisal of the Part 2 Local Plan. This is an integrated SA and Strategic Environmental Assessment (SEA) in line with the requirements of the Statutory Instrument 2004 No. 1633 and the Planning and Compulsory Purchase Act 2004.

2.4.2 The purpose of the SA is to advise of the sustainability effects of the local plan. The SA has a number of stages which have been undertaken and these are defined in Table 3.1 (PSD03). They are Stage A: Scoping, Stage B: Assessing the elements of the Local Plan, Alternative options and Assessment of preferred options, Stage C: Preparation of the SA report and Stage D Consulting on the SA report. Further detail is provided for each stage of the methodology in Para 3.2 – 3.7, Part 1, SA, Nov 2017 (Pg 8 -13).

2.4.3 The SA was prepared by Ramboll, consultants specialising in SA. A review was

undertaken of the baseline environmental, social and economic conditions of the plan areas and the important objectives the plan should be helping to achieve. This information was used to inform the SA framework which was set out in the SA scoping report. (PSD03) To carry out the assessment the local plan (and its reasonable alternatives) was then compared against different elements of the SA framework and effects identified. A combination of expert judgement and analysis of baseline data has been used to judge potential effects of the plan, which were then scored according to the significance of the effect. This approach is standard practice for SA.

2.4.4 The SA scoping report was published for consultation in January 2013 and then updated in September 2014 to take account of comments from consultees. A further update of the scoping information was undertaken in November 2017. The SA was subject to consultation at the Issues and Options stage March - April 2016 (FSD07, FSD08, FSD11 and FSD12). At the Issues and Options stage, the SA was undertaken for two separate documents, the Local Plan Part 2A Settlements and Countryside Local Plan (FSD05) and Part 2B Gypsies, Travellers and travelling Showpeople (FSD09) which were subsequently combined at the next stages of plan preparation Emerging Draft November 2017 – January 2018 (FSD02) and Submission version (August – October 2018) were also subject to consultation. Full details of the consultation can be found in PSD08. At each stage, comments received were used to inform the SA and subsequent amendments were made, if appropriate. A record has been kept of all the comments that have been received on the SA and the subsequent amendments made by the SA team. Where changes have not been made the reasoning for this has been set out. The SA addendum (PSD04) published in July 2018 outlines changes to the results of the SA which have occurred due to the modifications to the local plan from previous stages of consultation, specifically changes made to the Emerging Draft version (FSD02).

2.4.5 The approach to the SA was appropriate and was guided by good practice. The SA began early in the planning process, it helped to inform the content of the plan (see below), it included consultation at the appropriate stages and it undertook to define and assess reasonable alternatives (see below) in order to guide plan development. The SA team in charge of the SA have decades of experience between them and the process was led by a specialist with over 20 years' experience in strategic level environmental and sustainability assessment. The SA was quality assured at every stage which included a check to ensure that the process adhered to Statutory Instrument 2004 No. 1633: The Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations). This was reported in Table 1.1 of Part 1 of the SA report (PSD03).

**5. To what extent has the SA informed the content of the Plan? Have the likely economic, social and environmental effects of the plan been adequately and accurately assessed in the SA?**

- 2.5.1 From the outset of the Local Plan preparation, and throughout the subsequent processes, a series of iterative appraisals has been published and consulted upon. At each stage, comments were considered and, where appropriate, resulted in changes to the Plan. At each appraisal stage, the likely effects of the reasonable alternatives (identified by the Council) were identified, described and evaluated and possible mitigation measures to minimise adverse effects identified were proposed. The SA findings informed the choice of preferred options and helped to refine policies taken forward to the Plan.
- 2.5.2 The Sustainability Appraisal Report (PSD03) was published in November 2017, alongside the Emerging Draft Local Plan for consultation. The SA comprises of a number of parts; a Non-technical summary, Part 1 which details the methodology of SA, Part 2 scoping / baseline information for the plan area. Part 3a Assessment of reasonable alternatives and site options and Part 3b Results of the assessment.
- 2.5.3 The economic, social and environmental effects of the plan have been adequately and accurately assessed in the SA. The scoping report identifies the key environmental, social and economic evidence base and sustainability issues, opportunities and problems. This information is used to set out the SA framework which is then used to examine the sustainability impact of implementing the plan. Following consultation on the Emerging Draft local plan and the SA subsequent updates and an addendum to the SA were published in July and August 2018.
- 2.5.4 As stated above the SA process is an iterative one and was prepared alongside each stage of the Part 2 Local Plans production and used to assess the plan policies and allocations and inform any necessary changes and mitigation. At each stage of consultation the SA has been used to inform the Part 2 Local Plan. The SA Addendum report (PSD04) outlines changes to the results of the SA which have occurred due to modifications to the Part 2 Local Plan. Due to the addition of new policies, not previously assessed at earlier stages as well as other modifications (including boundary changes of proposed allocations) it was considered appropriate to screen the plan. One representor (PS069/03) considered that the route of the NNOR should be included within the SA, the Council has responded in PSD11, EXAM1B and EXAM1B. As the route has not yet been established and it is not a proposal of this plan it is not possible to define it within the part 2 local plan or SA.

**6. Does the SA test the Plan against all reasonable alternatives?**

2.6.1 Part 3A of the Sustainability Appraisal (PSD03) tests the reasonable alternative options for the local plan and in doing so identifies and evaluates their sustainability effects. The local plan alternatives have been considered in two ways, the overall strategy and policy options and the site options. Section 2 of Part 3a sets out the strategy and policy alternatives. Table 2.1 (Pg. 4 -7) details the reasonable alternatives identified, the reason for the approach to selection of alternatives and the reason for selecting the preferred approach. There was only one issue highlighted as a reasonable alternative approach, to development in open countryside through the use of the introduction of Article 4 direction to remove permitted development rights. Annex A (page 15) assesses the alternative against the SA objectives.

2.6.2 Section 3 of Part 3A (PSD03) assesses the reasonable site options. This is divided into assessment of six Daventry central area sites, assessment of four spatial approaches for Daventry town housing and the assessment of large number of housing and employment opportunities. Table 3.1a, 3.1b and 3.1c also details the reason for selecting alternatives. This includes the reasonable alternatives identified, the reason for the approach to selection of alternatives and the reason for selecting the preferred approach. The full results are shown in Annex B (page 21) and Individual Site assessments are found page 38 – 209. This is further supported by the Site Selection Background Paper (GEN05).

2.6.3 Representations were received in relation to the assessment of reasonable alternatives. The Council responded to concerns that the SA had not assessed the likely impacts of reasonable alternatives for both housing and employment in rural settlements from representations PS044/1, PS045/01, PS056/01, PS057/01, PS058/01, PS087/22 and PS096/1 in PSD11. As the rural requirement for housing has been exceeded and this was not justified in the context of the spatial strategy established in the WNJCS it was not considered necessary for further allocations in rural settlements to be assessed as a reasonable alternative. Similarly no sites for employment in the rural area were selected as alternatives as this was not supported by the strategy established in the WNJCS and the minimum job requirement set in the WNJCS has been met. Furthermore the evidence base (ECO3) did not support further employment allocations in the rural area to meet demand. Therefore further allocations in the rural area were not considered justified.

**7. Has adequate consideration been given to the HRA? Will the Plan, alone or in combination, adversely affect any Natura 2000 sites?**

2.7.1 Habitats Regulation Assessment screening of Daventry District Local Plan Part 2 amended (PSD05) was undertaken in July 2018. As detailed on page 4 of the report it concluded that *“since the plan has been found to not have a viable effect pathway to*

*the European sites, it cannot contribute to in-combination effects. Therefore no Likely Significant Effects to the Upper Nene Valley Gravel Pits SPA and Ramsar Site are considered to result from the implementation of the part 2 Local Plan for Daventry.”*

**8. Has the Council taken account of the judgement in People over Wind, Peter Sweetman v Coillte Teoranta?**

2.8.1 The Habitats Regulation Assessment letter (PSD05), presents the findings of the amended HRA screening exercise of the Part 2 local plan. The original screening was undertaken and consulted on in November 2017 (FSD03). However in light of the judgement of People over Wind, Peter Sweetman v Coillte Teoranta this was amended and re consulted on in July 2018. Natural England noted that the assessment had no likely significant effects, alone or in combination on European Sites and on the basis of information provided concurred with the view.

**9. Is Natural England satisfied with the content of the Plan?**

2.9.1 As a statutory consultee, Natural England has been consulted on at every stage of plan preparation. Appendix A to PSD05 includes correspondence from Natural England from 13<sup>th</sup> March 2013 and 2<sup>nd</sup> October 2018 (PS021). The proposed submission consultation response form from Natural England (PS021) states that Natural England has ‘No objection’ to the Settlements and Countryside Local Plan Part 2.

**Local Development Scheme (LDS)**

**10. To what extent has the production of the Plan followed the LDS?**

2.10.1 The plan has closely followed the Local Development Scheme. The most recently adopted Local Development Scheme (December 2017) sets out that draft consultation would take place between November 2017 and January 2018 and that proposed submission (Regulation 19) consultation would take place in August and September 2018. As set out in the Consultation Statement (PSD08) consultation has taken place at the same time as anticipated in the LDS. This has been followed by Submission of the plan in December 2018 which is just a month later than anticipated in the LDS.

**Duty to Co-operate (DTC)**

**11. Has the Council engaged constructively, actively and on an ongoing basis with all relevant organisations on strategic matters of relevance to the plan’s preparation, as required by the DTC?**

2.11.1 The Duty to Cooperate Background Paper (GEN02) sets out how Daventry District Council has engaged constructively, actively and on an ongoing basis with the



relevant organisations throughout the preparation of the plan from early 2016 to summer 2018.

**12. *What strategic, cross-border matters have arisen through the preparation of the Plan and what cooperation took place to resolve them?***

- 2.12.2 The only strategic, cross-border matters that have arisen through the preparation of the plan related to gypsy and travellers provision, how the Council should approach the shortfall in housing delivery in the Northampton Related Development Area and the proposed Green Wedge designation.
- 2.12.3 As set out on page 19 of GEN02, Kettering Borough Council was concerned with the methodology adopted by the gypsy and travellers study and its assumptions that it could be under-estimating need in Daventry District, citing an example where they were determining an application for two additional pitches from an applicant who then resided in Daventry District.
- 2.12.4 Further dialogue was undertaken to explore how the policy could be altered to address these concerns. Following these discussions further amendments to the policy and supporting text were proposed, specifically removing the specific pitch targets in the policy, to allow evidence to be updated and the policy to remain up to date and amendments to the supporting text acknowledging that whilst the need was significantly reduced applications would still need to be treated on a case by case basis through development management. This is explained in the Duty to Cooperate Background Paper and the specific changes, and the reasoning behind them, are covered in more detail in document FSD04-1 (page 61-62) with the changes also set out in document FSD04-2 (pages 27 – 28).
- 2.12.5 The Northampton Related Development Area issue is explained in more detail in the Duty to Cooperate Background Paper (GEN02) and the Northampton Related Development Area Background Paper (GEN03). In brief terms, following consultation on the Emerging Draft plan, South Northamptonshire Council (SNC) and Northamptonshire County Council (NCC) raised objections to the approach the plan was taking with respect of the Northampton Related Development Area and the need for the plan to make further provision to address a shortfall in housing delivery. Importantly, at this stage in the plan-making process SNC was proposing a criteria-based policy to allow for further development to meet Northampton's need adjacent to the NRDA boundary and considered that Daventry District Council should adopt a similar approach in the part 2 Local Plan. Northampton Borough Council did not object to the Emerging Draft plan.
- 2.12.6 The North Northamptonshire Joint Planning and Delivery Unit (NNJPDU) also objected to the proposed Green Wedge designation concerned that it would prejudice future decision making about where further development to meet Northampton's needs could be accommodated.

- 2.12.7 In terms of how these issues have been resolved, regarding the Green Wedge policy (ENV3), this was modified to narrow its focus on avoiding coalescence with additional supporting text (9.2.04) clarifying that the designation would not prejudice future decision making. These modifications are shown in the Composite List of changes (FSD04-2, pages 49 -50). In its response to the Proposed Submission consultation, (PS067) the NNJPDU confirmed it was happy that the proposed changes addressed its concerns.
- 2.12.8 Focusing on the wider NRDA issue, as set out in the NRDA Background Paper (GEN03) Daventry District Council did not consider that a criteria based policy was the correct approach as it would encourage piecemeal development, undermining the delivery of sites already allocated in the WNJCS in the NRDA which are starting to progress. Furthermore it was not considered that such a policy approach was supported by the WNJCS. In addition, given the scale of the shortfall against delivery, which is not as a consequence of a lack of sites but their slower than anticipated rates of delivery and additional housing was considered to be a matter for a review of the WNJCS which would enable the spatial distribution, the policy for the NRDA and further strategic allocations to be comprehensively considered with neighbouring authorities. The consideration of suitable sites for allocation or an alternative strategy would then be able to be informed by relevant site assessment work and sustainability appraisal, taking into account all reasonable alternatives.
- 2.12.9 Further meetings took place, and it was considered that this issue was therefore considered to be beyond the scope of the Part 2 Plan and ultimately a matter for the review of the WNJCS. That review is underway, with a Local Development Scheme adopted by each of the partner authorities and consultation on an issues paper anticipated for summer 2019. Furthermore importantly SNC, in its plan submitted for examination has removed the policy relating to the NRDA and has also not objected (PS089) to the Part 2 Plan under the Duty to Cooperate, but has raised concerns about the soundness of the Green Wedge Policy (ENV3). NBC and NCC have not responded to the plan in this context.
- 2.12.10 This position will be reflected as each of the three partner authorities (Northamptonshire County Council, Northampton Borough Council and South Northamptonshire Council) are in the process of signing a Statement of Common Ground (SCG03) confirming that the Part 2 Local Plan sets out a series of locally derived policies and proposals that do not conflict with the strategy set out in the WNJCS nor raise any significant cross-border planning issues or other matters which need to be addressed through the duty to cooperate. It will also confirm that the Councils will continue to work cooperatively in relation to any strategic cross border planning issues which may arise from the review of the WNJCS and in relation to the determination and implementation of sites relating to the NRDA allocated in the current adopted WNJCS.

2.12.11 It is clear that housing delivery in the NRDA is an important issue and one which is anticipated to feature prominently in the work of the review of the WNJCS. Importantly however the Local Housing Needs figures which could form the basis of future housing requirements show an annualised requirement of 2,180 dwellings which is lower than the current WNJSC requirement which, if calculated on an annualised basis, is 2,320 dwellings.

2.12.12 All of the partner councils are working together towards production of an Issues Paper which is expected to be reported to the West Northamptonshire Joint Planning and Infrastructure Board. An update will be provided to the Inspector at the hearings.

**13. Are there any outstanding concerns from adjoining authorities or other DTC bodies regarding the DTC?**

2.13.1 The Duty to Cooperate Background Paper, in its summary of issues (page 9-12), identified where there were any outstanding concerns as at July 2018. The response to the Inspectors initial questions (EXAM 1A) sets out an updated position where there are outstanding concerns however importantly these have not been identified in the context of the Duty to Cooperate.

2.13.2 Furthermore any non-Duty to Cooperate outstanding issues have been resolved through the Statements of Common Ground which either have been or will be placed on the website. For ease of reference an updated version of the table in EXAM 1A is set out below confirming this position;

Rep. ID	Organisation	Outstanding Issues?	Is a SoCG required?	Progress
PS012	Northamptonshire County Council Flood and Water Team	No outstanding issues	No	N/A
PS021	Natural England	No outstanding issues	No	N/A
PS024	Highways England	No outstanding issues	No	N/A
PS027	Environment Agency	No outstanding issues	No	N/A
PS042	Historic England	Objections to policy EC9 and ENV7	Yes	Statement of Common Ground signed; SCG01
PS053	Northamptonshire County Council Archaeology	Requirement for archaeological assessment for EC7	Not considered necessary – covered in PSD11	N/A
PS067	North Northamptonshire Joint Planning and Delivery Unit	No outstanding issues	No	N/A
PS089	South Northamptonshire Council	Objections to policy ENV3 – Green Wedge  Third parties have raised issues regarding under-delivery for the Northampton Related Development Area.	Yes in relation to the NRDA issue however ENV3 issue is covered in PSD11	Statement of Common Ground being signed

	Northampton Borough Council	No response to regulation 19 consultation however third parties have raised issues regarding under-delivery for the Northampton Related Development Area.	Yes	Statement of Common Ground being signed
	Northamptonshire County Council - Planning	No response to regulation 19 consultation however third parties have raised issues regarding under-delivery for the Northampton Related Development Area.	Yes	Statement of Common Ground being signed
	Stratford-upon-Avon Council	No response received to regulation 19 consultation	No	N/A
	Borough Council of Wellingborough	No response received to regulation 19 consultation	No	N/A
	Kettering Borough Council	No response received to regulation 19 consultation	No	N/A
	Rugby Borough Council	No response received to regulation 19 consultation	No	N/A
	Harborough District Council	No response received to regulation 19 consultation	No	N/A

**14. In overall terms has the Council engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the Plan?**

2.14.1 The Duty to Cooperate Background Paper (GEN02), response to EXAM1A and the responses to Questions 1-4 above confirm that the Council has engaged constructively, actively and on an ongoing basis in maximising the effectiveness of the preparation of the plan which was further confirmed through the absence of any objections from adjoining authorities or statutory bodies relating specifically to the Duty to Cooperate.