

Anca Seaton

From: Hannah Race <[REDACTED]>
Sent: 12 October 2023 16:59
To: Planning Policy
Cc: Keith Fenwick
Subject: Representations to Borough Plan Review - Regulation 19 consultation on behalf of Opus Land Nuneaton Ltd
Attachments: F001_v1_LP_BIR_P22-0439_Reg19_Form_A_and_B.pdf; R003v2_PL_P22-0439_Reg19Reps_FINAL ISSUE.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: WIP

Dear Sir/Madam

Please find attached Written Representations and associated Representations Form made in response to the Borough Plan Review – Regulation 19 consultation on behalf of Opus Land Nuneaton Ltd.

I would be grateful if you could confirm receipt of these documents.

Kind regards

Hannah Race
Planner

[REDACTED]
5th Floor, 1 Newhall Street | Birmingham | B3 3NH




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Please exercise extreme caution with attachments and website links or instructions to undertake financial transactions.

 <p>Nuneaton & Bedworth United to Achieve</p>	<p>Borough Plan Review Publication Stage Representation Form</p>	<p>Ref:</p> <p>(For official use only)</p>
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Name of the Local Plan to which this representation relates:

Borough Plan Review Regulation 19 Publication Stage

Please return to Nuneaton and Bedworth Borough Council by 16th October 2023 via:

Email: planning.policy@nuneatonandbedworth.gov.uk

Post: Planning Policy, Nuneaton and Bedworth Borough Council, Town Hall, Coton Road, NUNEATON, CV11 5AA

This form has two parts –

Part A – Personal details.

Part B – Your representation(s). Please fill in a separate sheet for each representation you wish to make.

Part A

	<p>1. Personal details* * If an agent is appointed, please complete only the Title, Name and Organisation boxes below but complete the full contact details of the agent in 2.</p>	<p>2. Agent's details (if applicable)</p>
Title		Mr
First name		Keith
Last name		Fenwick
Job title (where relevant)		Executive Director
Organisation (where relevant)		Pegasus Group
House no. and street		Floor 5, 1 Newhall Street
Town		Birmingham
Postcode		B3 3NH
Telephone number		
Email address (where relevant)		

Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	Duty to Cooperate
Policy	
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Please mark with an 'X' as appropriate.

5. Please give details of why you consider the Borough Plan is not legally compliant, is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Borough Plan, or its compliance with the Duty to Cooperate, please also use this box to set out your comments.

Please see attached Report.

(Continue on a separate sheet / expand box if necessary)

6. Please set out what modification(s) you consider necessary to make the Borough Plan legally compliant or sound, having regard to the matter you have identified in part 5 above, where this relates to soundness (Please note that any non-compliance with the Duty to Cooperate is incapable of modification at examination). You will need to say why this modification will make the Borough Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

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7. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?


No , I do not wish to participate at the oral examination	
Yes , I wish to participate at the oral examination	X

8. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

SEA6 is an important part of the employment and housing delivery of the Local Plan. It is important that the issues surrounding site development are properly reflected in policy, and do not undermine Local Plan delivery as a whole.

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<p>Signature: (Please sign the box if you are filling in a paper copy. If you are filling in an electronic copy, the box can be left blank)</p>	
<p>Date:</p>	<p>12/10/2023</p>

Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Strategic Policy DS1 – Sustainable development
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

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Yes , I wish to participate at the oral examination	X

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Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Strategic Policy DS2 – Settlement hierarchy and roles
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

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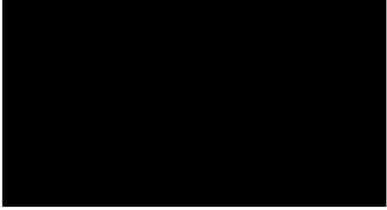
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Yes , I wish to participate at the oral examination	X

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<p>Date:</p>	<p>12/10/2023</p>

Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Strategic Policy DS3 – Overall Development Needs
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	X
No	

4.(2) Sound?

Yes	
No	X

4.(3) Complies with the Duty to Cooperate?

Yes	
No	

Please mark with an 'X' as appropriate.

5. Please give details of why you consider the Borough Plan is not legally compliant, is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

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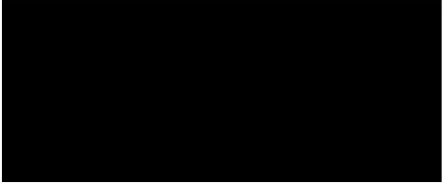
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Yes , I wish to participate at the oral examination	X

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<p>Date:</p>	<p>12/10/2023</p>

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Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Strategic Policy DS4 – Residential allocations
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

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Yes , I wish to participate at the oral examination	X

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<p>Date:</p>	<p>12/10/2023</p>

Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy DS7 – Monitoring of housing delivery
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

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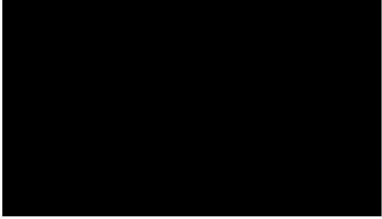
No , I do not wish to participate at the oral examination	
Yes , I wish to participate at the oral examination	X

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Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy DS8 – Review
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

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No , I do not wish to participate at the oral examination	
Yes , I wish to participate at the oral examination	X

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Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Strategic Policy SA1 – Development principles on strategic sites
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

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Yes , I wish to participate at the oral examination	X

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Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy H1 – Range and mix of housing
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	X
No	

4.(2) Sound?

Yes	
No	X

4.(3) Complies with the Duty to Cooperate?

Yes	
No	

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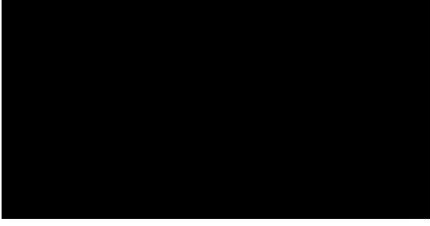
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Yes , I wish to participate at the oral examination	X

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Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy H2 – Affordable housing
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

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Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations based on the original representation at the publication stage.

After this stage, further submissions will be only at the request of the Inspector, based on the matters and issues he/she identifies for examination.

7. If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination?


No , I do not wish to participate at the oral examination	
Yes , I wish to participate at the oral examination	X

8. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

SEA6 is an important part of the employment and housing delivery of the Local Plan. It is important that the issues surrounding site development are properly reflected in policy, and do not undermine Local Plan delivery as a whole.

Please note the Inspector will determine the most appropriate procedure to adopt, to hear those who have indicated that they wish to participate at the oral part of the examination.

9.

<p>Signature: (Please sign the box if you are filling in a paper copy. If you are filling in an electronic copy, the box can be left blank)</p>	
<p>Date:</p>	<p>12/10/2023</p>

Part B – Please use a separate sheet for each representation

Name or Organisation: Opus Land Nuneaton Ltd

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Policy H4 – Nationally Described Space Standards
Policies Map	

4. Do you consider the Borough Plan is:

4.(1) Legally compliant?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

5. Please give details of why you consider the Borough Plan is not legally compliant, is unsound or fails to comply with the Duty to Cooperate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Borough Plan, or its compliance with the Duty to Cooperate, please also use this box to set out your comments.

Please see attached Report.

(Continue on a separate sheet / expand box if necessary)

6. Please set out what modification(s) you consider necessary to make the Borough Plan legally compliant or sound, having regard to the matter you have identified in part 5 above, where this relates to soundness (Please note that any non-compliance with the Duty to Cooperate is incapable of modification at examination). You will need to say why this modification will make the Borough Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Please see attached Report.

(Continue on a separate sheet / expand box if necessary)

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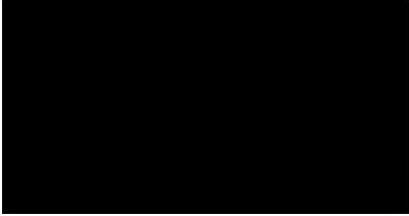
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<p>Date:</p>	<p>12/10/2023</p>

Part B – Please use a separate sheet for each representation

Name or Organisation: **Opus Land Nuneaton Ltd**

3. To which part of the Borough Plan does this representation relate?

Paragraph	
Policy	Strategic Policy SEA6 – Bowling Green Lane Policy Criteria: 1, 2, 3, 8, 10, 11, 12, 13, 14, 15, 16, 17, 19. Paragraph 7.129
Policies Map	

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No	<input type="checkbox"/>

4.(2) Sound?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

4.(3) Complies with the Duty to Cooperate?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

Please mark with an 'X' as appropriate.

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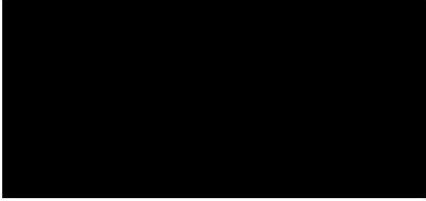
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Date:	12/10/2023

BOROUGH PLAN REVIEW 2021–2039

**NUNEATON AND BEDWORTH BOROUGH
COUNCIL**

**REGULATION 19 – PUBLICATION DRAFT PLAN
CONSULTATION (SEPTEMBER – OCTOBER 2023)**

Representations on behalf of Opus Land Nuneaton Limited

Date: October 2023 | Pegasus Ref: P22-0439 FINAL

Author: HR/KF



Document Management.

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FINAL	12/10/2023	HR	KF	FINAL ISSUE



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1. INTRODUCTION

1.1. These representations are made by Pegasus Group on behalf of Opus Land Nuneaton Limited (“Opus”), in response to Nuneaton and Bedworth Borough Council’s (“NBBC”) Borough Plan Review 2024–2039 Regulation 19 Final Draft Plan consultation (“the BPR Reg19”). The consultation runs between 4 September to 16 October 2023.

1.2. Opus are an established property development company based locally in the Midlands at the village of Henley-in-Arden.

Opus Land Interests

1.3. Opus has an interest in Land at Bowling Green Lane, which forms part of the existing strategic employment allocation **EMP7 – Bowling Green Lane** in the adopted Nuneaton and Bedworth Borough Plan 2011–2031 (adopted April 2019) (“NBBP”), and the emerging strategic mixed use residential and employment allocation **SEA6 – Bowling Green Lane** in the BPR Reg19 plan.

1.4. In April 2023 Opus submitted two outline planning applications to NBBC at the Bowling Green Lane site (NBBC site reference 114B008 – Hall Farm Church Lane, Exhall). One application is for commercial development and the other for residential and care home development. These applications are currently live and have the following descriptions of development:

- Reference O39611 for ‘Outline planning application for the demolition of all existing structures on site, the development of up to 60,000 sq m of commercial/industrial floorspace (Use Classes B2/B8/E(g)(ii and iii)) including ancillary office space (Use Class E(g)(i)) together with internal access roads, service yards, parking, landscaping, drainage and associated works with all matters reserved (appearance, landscaping, layout and scale) except for access to Bowling Green Lane and the widening of the carriageway of School Lane and associated works.’
- Reference O39592 for ‘Outline planning application for the development of up to 93 dwellings (Use Class C3) and up to 70 bed care home (Use Class C2) including parking, open space, drainage and associated works with all matters reserved except for access (on to Bowling Green Lane).’

1.5. As detailed further in these representations, Opus acquired an interest in the site after it was removed from the Green Belt and allocated for commercial development in the adopted NBBP and have been involved with the site since early 2022, engaging with the Council both through the local plan review process and through pre-application engagement. The two planning applications are supported by a suite of technical reports and architectural plans prepared in line with the relevant national and local guidance, the scope of which was agreed with NBBC through the pre-application engagement. These representations have been informed by the detailed and comprehensive site-specific understanding that Opus have gained through the preparation of the technical reports and plans that support the planning application. This experience has in turn informed the technical review of the policies contained within the BPR Reg19 in these representations.



Representations

- 1.6. These representations respond to the emerging policies contained within the BPR Reg19 Plan, having regard to the national and local policy context. The representations also provide comment in respect of the evidence base that underpins the Borough Plan Review, making reference to representations submitted on behalf of Opus at earlier stages in the Borough Plan Review process.
- 1.7. The representations are framed in the context of the requirements of local plans and spatial development strategies to be legally compliant and sound. The tests of soundness are set out in the National Planning Policy Framework (September 2023) (“**NPPF**”), paragraph 35. For a development plan to be sound it must be:
 - **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;
 - **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
 - **Effective** – deliverable over the plan period, and based on effective and joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in the NPPF and other statements of national planning policy, where relevant.
- 1.8. These representations have regard to the NPPF’s emphasis on the role of development plans in providing a framework for addressing housing needs (including affordable) and employment development alongside other economic, social and environmental priorities (paragraph 15) and in supporting the Government’s objective of significantly boosting the supply of homes, through ensuring that a sufficient amount and variety of land can come forward where it is needed.
- 1.9. They also have regard to the statutory duty for local planning authorities to co-operate with neighbouring councils and prescribed bodies relating to strategic matters when preparing development plan documents.



2. BACKGROUND

The Borough Plan Review Process

- 2.1. The Borough Plan Review is intended to replace the adopted NBBP and extend the timeframe covered by the NBBP until 2039.
- 2.2. The NBBP was adopted in June 2019 and covers the period up to 2031. NBBC committed to undertaking an immediate review of the adopted NBBP following the publication of the updated NPPF in July 2021.
- 2.3. The Council's decision to review the NBBP is fully supported by Opus to ensure:
 - planning policies and proposals are consistent with the updated NPPF;
 - the housing, employment and economic development requirements and needs are aligned to the most up-to-date information, including household and economic projections and cross-boundary needs; and
 - the Local Plan is up to date, reflecting Government guidance that plans should be regularly reviewed and the evidence base renewed to respond to changing needs.
- 2.4. The Council consulted on a Regulation 18 Preferred Options version of the Plan (the "BPR PO") in June to July 2022. Representations were made to the BPR PO consultation on behalf of Opus.
- 2.5. The Council are now consulting on the BPR Reg 19. This Plan will be the version submitted to the Secretary of State and examined by an independent Inspector.

Land at Bowling Green Lane

- 2.6. The site currently comprises greenfield agricultural fields, hedgerows, and trees. The site is divided into two distinct parcels by the presence of an overhead 400kV electricity line/pylon corridor, which creates a physical separation within the site. The Site is within an 'urban fringe' location, characterised by a mixture of land uses such as residential, agricultural, retail, and social, some existing commercial development, the local and strategic road network and local facilities and services.
- 2.7. Opus' land interests comprise the eastern two thirds of the land currently allocated under **Policy EMP7 – Bowling Green Lane**, a strategic employment allocation in the adopted NBBP. As detailed in depth further in these representations, the land was released from the Green Belt upon the adoption of the NBBP.



3. REPRESENTATIONS ON THE CONTENTS OF THE BPR REG 19 PLAN

Section 1.0: Introduction

Duty To Co-Operate

- 3.1. Opus support the Council's commitment (at 1.11 of the BPR Reg19 Plan) to positive engagement with relevant bodies on strategic matters that cross administrative boundaries.
- 3.2. It was noted at the BPR PO stage in the response of Coventry City Council ("**CCC**") and North Warwickshire Borough Council ("**NWBC**") that they were concerned regarding the absence of a Memorandum of Understanding between the authorities and that obligations under the Duty to Cooperate were not being met.
- 3.3. Pegasus Group have had sight of the Home Builders federation Draft Reps to the Reg19 submission Local Plan and note that there continues to be an absence of evidence of compliance with the Duty to Cooperate, specifically regarding addressing the unmet needs of Coventry and more widely the absence of a signed Statement of Common Ground between the Council and neighbouring authorities.
- 3.4. Opus are concerned that in the absence of these key aspects of evidence, the Duty to Cooperate test will not be met and the Plan will be found unsound. It is important that this is addressed of a matter of urgency as it may clearly have implications for the quantum of development which the Plan is aiming to deliver.
- 3.5. It is noted that the main change in the evidence base between the BPR PO and the BPR Reg19 is the Icenii Projects' sub-regional Housing and Economic Needs Assessment (the "**Sub-Regional HEDNA**") for Coventry and Warwickshire, published in November 2022. Opus welcome the incorporation of this key piece of evidence to feed into the housing and employment requirements for each of the Coventry and Warwickshire authorities, updated to include data from the 2021 Census, and will assist in the identification of any unmet needs that will need to be addressed across boundaries.

Section 4.0: Vision and Objectives

- 3.6. The Vision and Objectives set out at paragraph 4.1 are broadly supported. The Vision rightly aims to ensure the Borough is a place of sustainable economic growth with diverse job prospects, housing for all and integrated infrastructure. This is particularly important as historically the rate of employment growth in Nuneaton and Bedworth has been below other parts of the Coventry and Warwickshire Sub Region and West Midlands.

Section 6.0: Development Strategy

Strategic Policy DS1 – Sustainable development

- 3.7. Opus object to Policy DS1. The policy text itself is lengthy and confusing, and it is unclear how the first three paragraphs will directly support the delivery of sustainable development within Nuneaton and Bedworth specifically. The five differing sections of the policy bare limited relationship to one another, with the first paragraph providing no clear or specific

strategy, favouring generic statements with no defined outcome or intended direction. The result is an inconsistent approach with national policy, and a failure to meet with the tests of soundness.

- 3.8. Opus object to the reference in the second paragraph of Policy DS1 to bring new developments in line with water resource efficiency of 110 litres/person/day, the inclusion of this specific element in a strategic level policy is not justified and unsound. This is a matter best addressed through Policy BE3 – Sustainable Construction.

Strategic Policy DS2 – Settlement hierarchy and roles

- 3.9. Opus supports the Council's acknowledgement in the supporting text to Policy DS2 that it is necessary to consider the wider context in which the Borough is located, including the close proximity of other settlements outside the Borough boundary.
- 3.10. Opus agrees that Nuneaton, Bedworth, Bulkington and the northern Coventry fringe are the most sustainable locations for growth and supports the identification within the supporting text of the role the Plan has in delivering the wider aspirations of the sub-region.
- 3.11. The policy identifies the northern fringe of Coventry as having "*a supporting role for housing, shopping and local services*". This does not fully reflect the important role parts of the northern fringe play in the delivery of employment land. Land close to M6 Junction 3, at the northern fringe of Coventry and southern area of Bedworth, has consistently been considered an appropriate location for significant employment development, as evidenced by existing Borough Plan allocations EMP2, EMP6 and EMP7.
- 3.12. Large-scale employment and distribution uses are most appropriately located close to, and with ready access to, the strategic road network to facilitate the requirements of the businesses that occupy such premises but also to minimise any potential conflict with residential amenity and impact on the local road network. The M6 transport corridor was identified as a potential key development corridor for strategic growth in the Sub-Regional HEDNA (Para no. 11.24). The BPR Reg19 Plan should seek to capitalise on the access to the M6 in order to encourage and attract substantial economic investment and job creation.
- 3.13. Policy DS2 should be subject to modification to ensure that the importance of the M6 development corridor between junctions 2 and 3 as identified by the HEDNA is specifically addressed with relation to the role of Bedworth in the Settlement Hierarchy as DS2.2. Without this amendment the plan is unsound as it will not have been positively prepared or effective, noting that the corridor also relates to cross boundary issues relating to Coventry and the northern fringe.

Strategic Policy DS3 – Overall Development Needs

- 3.14. Policy DS3 confirms 9,810 homes (based on 545 dwellings per annum), 66.45ha of employment land for local industrial, 2 ha of employment land for office space, and 19.4ha of employment land for strategic B8 warehousing and distribution development (though this is stated as indicative) will be planned for within the Borough between 2024 and 2039.
- 3.15. These levels of housing and employment differ from those given in the previous BPR PO stage and have been reviewed following the publication of the Sub-Regional HEDNA. To summarise, the changes comprise:



- An increase of 120 homes required to be provided over the plan period, which has decreased by 111 dwellings per annum.
- The incorporation of a new separate 'indicative' requirement for employment land for strategic B8 warehousing.
- An increase in overall employment land requirement by 5.35ha.

3.16. Opus support the recognition of the Council in ensuring that housing growth matches the planned economic growth scenario such that there are sufficient homes to support the strategic employment growth aspirations of the Borough.

3.17. It is noted that there are significant unresolved issues relating to both addressing the unmet housing needs of Coventry, and whether that should include the Coventry urban uplift to the standard methodology, and indeed the significant need for affordable housing within Nuneaton and Bedworth. Such needs (407 dpa) are not going to be met with a policy looking to deliver 25% affordable housing against an annual requirement of 545 dpa.

3.18. Whilst Opus are supportive of the alignment of employment growth and residential growth, it is considered that the Reg19 Plan does not provide sufficient housing growth to address the needs of the Borough and its obligations under the Duty to Cooperate. Moreover, if housing delivery is increased then there should be a commensurate increase in employment allocations to meet the requirements from the increased population.

3.19. Policy DS2 is therefore considered unsound as it is neither justified nor consistent with national policy.

Strategic Policy DS4 – Residential allocations

3.20. Opus supports the allocation of a range of residential development sites sized from strategic allocations of more than 1,000 homes to small sites with fewer than 10 dwellings. The use of a housing need figure higher than the minimum derived from the standard method is supported, in order to provide a buffer of flexibility in supply.

3.21. The strategic residential allocations proposed in the BPR Reg19 add up to a total of 4,769 of the minimum 9,810 homes identified as being required to meet Nuneaton and Bedworth's own needs according to the Sub-Regional HEDNA. Opus support the inclusion of SEA6 within the strategic housing allocations and welcome the reference to its position next to the employment allocation.

3.22. Opus support the identification of Land at Bowling Green Lane under SEA6 for residential development. As is evidenced by the current live application, however, development on the site may take the form of a mixed residential / care home development. The policy should allow sufficient flexibility to allow such a balance of uses. Specifically, the current application proposes up to 93 homes and a 70-bed care home. Without such flexibility, which is necessary to achieve the Framework objectives of addressing, *inter alia*, the housing needs of older people, the policy is considered unsound.

3.23. Opus raise a specific objection to the site area identified on the proposals map for the SEA residential policy, which includes a parcel of land to the south of the overhead pylons. More detailed reference is made to this under the SEA6 commentary below.

Strategic Policy DS5 – Employment allocations

- 3.24. The employment allocations in Policy DS5 identify land for 52.15ha of employment land and associated infrastructure, to address a minimum requirement identified through the bringing together of the various studies and the Employment Land Portfolio of 87.86ha. SEA6 is identified for 19.89ha of employment land in Policy DS5.
- 3.25. Opus support the allocation of SEA6 for strategic employment purposes. This is justified and is supported by appropriate evidence in the form of Icení's Towards a Housing Requirement for Nuneaton & Bedworth Report (November 2022) (the "**Housing Requirement Paper**"). This Paper considers and draws together factors relevant to setting a housing requirement and policies for employment land provision for NBBC within the emerging Borough Plan Review. The report was written alongside the Sub-Regional HEDNA and is intended to be read alongside it, providing more specific consideration of housing and employment need in the NBBC area. The Housing Requirement Paper recognises that EMP7 of the adopted NBBP is a key employment allocation development site and given its location adjoining the junction of the M6 and A444, the Paper assumed it would be developed for strategic B8.
- 3.26. Opus further support the recognition of Land at Bowling Green Lane for strategic employment as being justified in line with other elements of the evidence base. The Sub-Regional HEDNA identifies four key potential corridors within the sub-region which could accommodate strategic B8 development in the sub region (Sub Regional HEDNA, Paragraph 11.24). One of these is M6 corridor which is described as:
- *"M6 Corridor – this corridor includes Junctions 2 and 3 on the northern side of Coventry, as well as Junction 1 at Rugby. Coventry is a large population centre which includes areas of deprivation."*
- 3.27. The site is located within the M6 corridor, which makes it strategically accessible and a key location for strategic development. The HEDNA recognises that existing concentrations of employment development indicate that the key M6 corridor is an attractive location for strategic B8 development and well related to the 'Golden Triangle' (Paragraph 11.25). The Golden Triangle is an area of the Midlands that is renowned for its high density of distribution facilities, being within a 4-hour drive of 90% of the UK population.
- 3.28. Sites within the Triangle are easily accessible by the M1, M6 and M42 motorways, making it a prime location for the logistics industry and one which is of national and not just local, or even regional, economic importance. It is important that the potential of strategic allocations within this area are fulfilled to their maximum as they drive a wider national economic benefit, the impacts of which extend significantly beyond the Borough boundaries.
- 3.29. For obvious reasons, the geography of the Triangle is fixed to this area of the Midlands and is unique at a national level.
- 3.30. This location remains one of the preferred locations for strategic B8 development. The HEDNA recommends that there should continue to be a focus of strategic B8 growth in the north and west of the sub-region, where SEA6 falls. Opus therefore support the continued allocation of Land at Bowling Green Lane for employment development, with this element being positively prepared and justified, responding to the identified need and meeting the tests of soundness.

Policy DS7 – Monitoring of housing delivery

3.31. The Council's commitment to taking the necessary action to address any shortfall in the housing delivery rate following adoption of the Plan is welcomed. However, Opus raise objection to the policy as drafted as it fails to include a clear approach to the identification and release of additional land for residential development, beyond the limited approach currently proposed of initially seeking redevelopment opportunities within Nuneaton town centre and at the edges of settlements. This is not consistent with national policy and does not reflect the delivery of sustainable development, thus failing to meet the tests of soundness.

3.32. In order to be found sound, it is necessary to ensure that a range of sustainably located additional residential sites are available and capable of delivering an appropriate mix of homes to address the shortfall within a relatively short timescale, or alternatively there is a clear criteria-based policy for the identification of sites which ought to be released.

Policy DS8 – Review

3.33. The commitment to early review of the Plan *'if required by changing circumstances'* is supported, however as drafted the policy is vague and imprecise in how and when the triggers would be activated. In order to be found sound, the policy must be amended to include precise and more measurable triggers.

Section 7.0: Strategic allocations

Strategic Policy SA1 – Development principles on strategic sites

3.34. Policy SA1 seeks to apply a series of requirements to residential development proposals on all strategic sites.

3.35. The application of the Nationally Described Space Standards ("**NDSS**") to all residential development as required by SA1 is unsound, being inconsistent with national guidance. As per footnote 49 of the NPPF and the Government's Planning Practice Guidance (ref. ID: 56-020-20150327), this requirement, if it is to be imposed, requires full justification including an assessment of its impacts upon viability, and none is provided in this case, therefore the policy is unsound.

3.36. Opus object to the inclusion in the Local Plan of the proposed requirement for compliance with the Future Homes and Building Standard. The standard will be addressed through Building Regulations from 2025 and it is therefore unnecessary to duplicate its requirements within local plan policy. Its inclusion is unsound.

3.37. Opus object to the proposed requirement for 95% of residential development on strategic sites to meet the M4(2) Building Regulations standard and 5% of residential development on strategic sites to meet the M4(3) Building Regulations standard. As per NPPF footnote 49, these are optional technical standards for accessible and adaptable housing and should be made use of by planning policy *"where this would address an identified need for such properties"*. Planning Practice Guidance (ref. ID: 56-007-20150327) sets out the evidence that can be used by local planning authorities to demonstrate a need to set higher accessibility, adaptability and wheelchair housing standards. This evidence should include the viability impacts of requiring higher optional technical standards. Evidence on viability prepared by Dixon Searle does not accurately reflect on the requirements imposed by Policy H1 specifically with regard to Part M4(3). Moreover, as identified within the PPG (ref ID: 56-008-20160519) there are numerous circumstances where it would be unreasonable to



require M4(2) and M4(3) complaint dwellings the wording of the policy should, therefore, allow for a level of flexibility.

- 3.38. Opus object to the requirement at SA1.15 for employment site car parking to be positioned at least 50 m from residential properties. This is considered to be an unjustified and unreasonable constraint, it is inflexible and unsupported by any evidence. It fails to meet the tests of soundness as it would impose an arbitrary constraint on site development, rendering strategic employment allocations potentially ineffective, and would be inconsistent with national policy guidance on maximising the potential of development land as a scarce resource.
- 3.39. The 50 m requirement is not based upon any evidential assessment or survey. Separation distances from car parking are a detailed matter of development management and it is inappropriate to impose a blanket nominal restriction through a strategic policy. At application stage, a detailed judgement can be reached following production of a Noise Assessment as to whether the impact of employment generated noise on nearby residential receptors would be acceptable.
- 3.40. Such a technical assessment would provide appropriate site specific scrutiny and may find, for example, that a much smaller distance is an acceptable buffer if site specific circumstances such as topography, intervening buildings, or the imposition of noise mitigation measures can create a wholly appropriate noise environment for adjacent residential amenity.
- 3.41. A consequence of the policy may be the undue loss of large areas of otherwise developable land, including that on the allocated strategic employment sites. This is inconsistent with national policy as the policy as drafted does not allow for the effective use of land as per NPPF Section 11. The policy also does not provide any allowance or changes to this 50 m policy test through successful noise mitigation.
- 3.42. Policy SA1 seeks to require full compliance with “*the requirements set out within the relevant SPDs*” (in reference to residential standards at SA1.1) and “*the requirements of the relevant Concept Plan SPD*” (at SA1.15). It is not appropriate nor positively prepared to treat the content of SPDs as equivalent to development plan policies which have been tested through the examination process. It is more appropriate to refer to up-to-date SPDs as material considerations in planning decisions, in line with Planning Practice Guidance (Ref. ID: 61-008-20190315). The Council is effectively seeking to give local plan policy status to SPDs. Planning policy must be made through the local plan process and be subject to mandatory requirements for public consultation and independent scrutiny through the examination process. The matter is compounded by the fact that existing SPDs which the Council seek to incorporate and give equivalence of local plan policy to, have been prepared against the policies of the currently adopted Local Plan which will be replaced.
- 3.43. Opus therefore strongly object to any attempt of this Local Plan to incorporate SPD within local plan policy. Such an approach is clearly unsound and contrary to national policy.
- 3.44. It is noted that a number of other policies within the Local Plan make reference to M4(2) and M4(3) and NDSS (H1, H2, H5, and BE3 for example). Opus’ objections to these references within Policy SA1 apply equally to those other policies. If reference to these standards is to remain within the plan, then the plan should be simplified such that they are contained within a single policy.

- 3.45. The supporting text of Strategic Policy SA1 at Paragraph 7.18 – 7.22 states a requirement for *“The provision of new facilities or the enhancement of existing facilities will be brought forward as part of each of the strategic allocations.”* Opus highlight that all contributions sought by policies within the Plan require a CIL Regulation 122 level of evidential justification to be consistent with national policy and therefore found sound.

Strategic Policy SEA-6 – Bowling Green Lane

- 3.46. Please note that the representations relating to policy SEA6 are contained within Section 4 below.

Section 8.0: Housing

Policy H1 – Range and mix of housing

- 3.47. Opus support the requirement for a range and mix of housing that meets identified and evidenced needs and demands to be delivered through development. Policy H1 currently refers to *“the most up to date HEDNA Assessment or equivalent”* as the appropriate source of evidence of need. Opus welcome the inclusion of the assessment and conclusions from the Sub-Regional HEDNA to inform the requirements of the BPR Reg19 plan.
- 3.48. However, Opus object to the policy as drafted as it does not allow for any departure from the specific mix recommended across the wider Borough where it can be demonstrated that an alternative mix is justified and appropriate for a particular site. This therefore renders the policy ineffective and as it may not secure deliverability across all sites within the plan period.
- 3.49. Policy H1 applies a requirement for homes for older people and other specialised housing to comply with M4(2) and 5% M4(3) Building Regulations standards. The policy also states that proposals for homes for older people and specialised housing will need to comply with M4(3) Building Regulations standards as a minimum. As stated above, Opus object to the inclusion of optional technical standards for accessible and adaptable housing within planning policy as it must be justified through evidence of an identified need for such properties, in accordance with NPPF footnote 49 and Planning Practice Guidance (ref. ID: 56-007-20150327). Such evidence has not been provided to date through the Borough Plan Review process, and this element of the policy would therefore not currently meet the requirements of the tests of soundness as currently drafted.
- 3.50. The requirements for development of homes for older people and specialised housing to comply with the emerging Warwickshire Country Council Technical Guidance for Specialised Supported Housing and Housing with Care developments is not supported. This requirement is both ambiguous, given that it refers to evidence which is not yet complete, and affords inappropriate status to a guidance document. As with SPDs, technical guidance documents are not tested through the local plan examination process and should be treated as material considerations and not be given equivalence to local plan policies and this element therefore fails to align with the tests of soundness.

Policy H2 – Affordable Housing

- 3.51. Opus supports the delivery of an appropriate amount of affordable housing at residential development sites. At present, Policy H2 seeks the delivery of 25% affordable housing where residential development proposals consist of 15 dwellings or more. The supporting text to Policy H2 states that this figure was confirmed to be viable in work undertaken by Dixon



Searle Partnership in 2023, this represents an update to the work used to inform the BPR PO plan and Opus support the update to this part of the evidence base.

- 3.52. With regard to the delivery of First Homes, the policy states that 25% of the total affordable housing requirement will need to be provided as First Homes. This is in line with Government guidance in the Planning Practice Guidance (Ref. ID: 70-001-20210524).
- 3.53. As with Policies SA1 and H1, Policy H2 seeks to apply requirements that 95% of affordable housing must meet M4(2) and 5% M4(3) Building Regulations standards. Opus object to this as drafted and re-iterate that such an approach should be justified by robust evidence of both need and viability in order to comply with the tests of soundness.

Policy H4 – Nationally Described Space Standards

- 3.54. Opus object to the requirement for all housing to comply with NDSS. This requires robust and evidenced justification in order to be found sound, and no justification or evidence has been demonstrated.

Section 9.0: Employment

Policy E1 – Nature of employment growth

- 3.55. The specific focus in Policy E1 on Use Classes B2 and B8 on strategic employment sites and existing employment sites is supported by Opus, this element is justified as it has been prepared in line with the assessment contained with the Housing Requirement Paper (which also addressed associated economic / employment growth) and the Sub-Regional HEDNA.
- 3.56. The emphasis within the policy (at E1.2) on favourable consideration for certain employment sectors includes advanced manufacturing, professional services and research and development but does not include logistics development. Up-to-date evidence (as referenced below) demonstrates that there is demand within the West Midlands (and the Golden Triangle) and which can offer excellent opportunities for logistics development which serves a wider national economic need.
- 3.57. Logistic developments within the 21st Century offer highly skilled working environments. They are driven by a complex network of supportive IT infrastructure, finance and administrative roles. Modern logistic distribution facilities are always now accompanied by an associated 10–15% of their floorspace for ancillary office functions. The employment within these this office space is of itself significant creating high value jobs often of a highly skilled nature. Given the sites location within the Golden Triangle and its wider economic profile it is important that the plan recognises the significance of the logistics industry to the Midlands and this should be recognised as a priority within Policy E1.2 in order to ensure the policy is fully sound and consistent with the Framework and other statements of national planning policy.
- 3.58. Knight Frank's *LOGIC: Midlands 2023 Review, Quarter 3 of 2023* (Knight Frank Research, Quarter 2 2023) reported that distribution occupiers account for the majority of the annual total of uplift in demand from manufacturers, at 55%. In addition, the report noted that manufacturing firms have been increasingly active in the Midlands with take up growing by 15% from 2022 to 2023.



- 3.59. The latest *United Kingdom Logistics Outlook Summary (2023)* from Knight Frank Research reported that take up levels have returned to pre-pandemic norms, led by the expansion of online retailers and distribution firms, with record levels of take-up over the past three years (2020 – 2022). This has led to a requirement for upsizing to accommodate additional demand.
- 3.60. The delivery of logistics and warehousing development at appropriately located sites, such as SEA6, would meet a strong existing sub-regional demand, identified within the Sub-Regional HEDNA. This would promote inward investment and generate a diverse range of high-quality employment opportunities, in line with Objectives 1 and 2 of the BPR Reg19 and Policy E1.1 and E1.3.

4. REPRESENTATIONS ON STRATEGIC POLICY SEA6 – BOWLING GREEN LANE

Introduction

- 4.1. Strategic Policy SEA6 – Bowling Green Lane is a strategic allocation for employment and residential development. As detailed in Section 1 Introduction, Opus submitted two outline planning applications for the site in April 2023, comprising an application for proposed employment development on the north western parcel of land, and an application for residential and care home development on the north eastern parcel of land.
- 4.2. These two applications are supported by a suite of technical reports and plans, the scope of which was agreed during the pre-application engagement process. The reports and plans provide a 'development management level' of detail and information, which it is acknowledged will not have been available to those drafting planning policy.
- 4.3. The allocation of the land at Bowling Green Lane represents a reallocation of the site identified by the current local plan as site EMP7. It was removed from the Green Belt at the point of adoption of the current NBBP, its purpose being to meet a strategic employment need.
- 4.4. In the Final Report on the Borough Plan (published 9 April 2019), the Inspector detailed the 'exceptional circumstances' case for releasing the site from the Green Belt, noting at Paragraph 229:
- 'There are limited options for strategic employment land releases at Bedworth even though its proximity to the M6 and Coventry are significant attractors for investment in new jobs... In terms of strategic exceptional circumstances...the site would be a strategic site capable of accommodating larger premises...being highly visible from the M6, which the evidence base and LEP identifies as a key factor for attracting investment.'*
- 4.5. The Coventry & Warwickshire Employment Land Use Study 2015, part of the evidence base which informed the adopted NBBP, identified a scarcity of good-quality and well-located employment land in respect of the strategic locations within the Borough. In particular, a need was identified for the provision of additional strategic sites capable of accommodating the largest strategic B8 requirements, with a risk that demand may be forced to look elsewhere in the UK.
- 4.6. Land at Bowling Green Lane was identified as suitable for the delivery of the identified strategic employment need at this strategically accessible location.
- 4.7. The identified need for strategic employment land to the south of Bedworth within the M6 corridor and accessible to it was a matter of sufficient weight that the Inspector supported the argument for exception circumstances to amend the Green Belt boundary and release the site for strategic employment development.
- 4.8. The sites allocation for employment development to meet strategic needs, inevitably requires the construction of large employment footprint buildings. This was a point explicitly recognised by the Inspector as supporting the exceptional circumstances case. Opus Land are an experienced regional developer of large employment premises, the continued market



demand for such a facility, has only increased post Covid (as noted through the Sub Regional HEDNA) and is reflected in the application currently before the Council.

Principle of Development – Employment Allocation

- 4.9. Opus support the principle of the allocation of land at SEA6 and recognise that the successful development of the site will meet an important component of the Councils strategic employment requirement for the new plan period.
- 4.10. The Sub-Regional HEDNA provides an assessment of development needs including for employment land across the sub-region. Key themes in terms of the current industrial market sector includes a recognition that the central and northern part of the sub-region, which includes Nuneaton and Bedworth, has a strong and dynamic industrial market, concluding that there will likely be a continuing need to replenish industrial supply over time if economic growth is not to be constrained.
- 4.11. Taking into account all the approaches identified, the Sub-Regional HEDNA identifies an overall need for 47.7ha of employment land to 2041 in Nuneaton and Bedworth. The HEDNA also recognises that there was a relatively constrained supply position for a number of years in Nuneaton and Bedworth prior to the adoption of the Local Plan in 2019, which released a number of sites from the Green Belt.
- 4.12. The HEDNA goes on to identify four key potential corridors within the sub-region which could accommodate strategic B8 development in the sub region (Sub Regional HEDNA, Paragraph 11.24). One of these is M6 corridor which is described as:
- *“M6 Corridor – this corridor includes Junctions 2 and 3 on the northern side of Coventry, as well as Junction 1 at Rugby. Coventry is a large population centre which includes areas of deprivation.”*
- 4.13. The site is located within the M6 corridor, which makes it strategically accessible and a key location for strategic development. The HEDNA recognises that existing concentrations of employment development indicate that the key M6 corridor is an attractive location for strategic B8 development and well related to the Golden Triangle. This location remains one of the preferred locations for strategic B8 development. The HEDNA recommends that there should continue to be a focus of strategic B8 growth in the north and west of the sub-region, where SEA6 falls. Opus therefore support the continued allocation of Land at Bowling Green Lane for employment development, with this element being positively prepared and justified, responding to the identified need and meeting the tests of soundness.

Principle of Development – Residential

- 4.14. Opus support the principle of residential development on the north eastern portion of Land at Bowling Green Lane. The north eastern parcel of the site (to the north of the overhead pylons) is well related to the existing residential development of south Bedworth. The parcel lies immediately to the south of Goodyers End Primary School and Opus support residential uses here as an appropriate use to be situated next to the school.
- 4.15. The live planning application currently before the Council proposes up to 93 homes and a 70 bed care home development, both of which are suitable uses for the site. The site is well related to the surrounding residential development, being in a sustainable location with easy access to the facilities within Bedworth.



Site Allocation Boundaries

- 4.16. The site is allocated in the adopted NBBP as EMP7, a strategic employment allocation. This allocation boundary encompasses both the draft residential and employment sites, and some further land to west of the site. To support the allocation, NBBC produced a Concept Plans for Strategic Allocations: EMP7, Bowling Green Lane Supplementary Planning Document (2020) (“SPD”). This SPD established further the land use, development principles, and infrastructure delivery requirements.
- 4.17. The site is now proposed for a mix of both residential and employment development. To reflect this, there is a boundary drawn between the two uses, internal to the wider site. The northern part of that boundary logically follows the line of the overhead 400kv electricity pylons which cross the site, and which present a clear and distinct physical separation on the ground, as this is a corridor through the site where no buildings can be constructed. Indeed, it was the presence of this corridor that drove the decision to split the site as the shape and configuration of the land to the north east of the pylons is irregular and contains a belt of trees, which if kept, makes it difficult to develop this part of the site efficiently for employment uses.
- 4.18. However, the southern portion of the allocation boundary has been drawn away from the pylon corridor such that there is an incursion of the into a relatively limited area to the south of the pylon alignment. The alignment of this boundary is objected to as being unsound for the reasons established below.
- 4.19. It is considered that a sound allocation would in fact utilise the presence of the pylons on the site to represent the logical and sound boundary between the two uses. There are a number of matters arising which are material to the consideration of this issue.
- 4.20. Firstly, the alignment shown within the BPR Reg19 Plan mirrors that shown with BPR PO Reg18 stage. The Reg18 boundary was prepared at short notice by the Council, following a meeting between Opus and Council officers some two weeks prior to the publication of the Reg18 plan. At that time, when Opus had only recently secured their interest in the land, options were being considered for the residential development of the parcel to the north of the pylons which made assumptions regarding a shared access with the employment use and also whether it was appropriate to provide elements of open space/BNG related to the residential but to the south of the pylons. It was not the intent of Opus to suggest that this was a definitive design solution, and the additional technical work undertaken to support the applications has demonstrated that such proposals are not viable in design terms. Indeed, as part of the consultation responses from the Council to the current residential application, they have identified that their own policy excludes land under pylons for Public Open Space.
- 4.21. Further, National Grid guidance on ‘Development near overhead lines’ (National Grid, July 2008) identifies that residential development should not occur under high voltage electricity pylons. With the allocation as drafted, therefore, and noting the sterilisation of the corridor under the pylons, the effect of the allocation would be to create a small parcel of residential development land detached from the main residential development north of the pylons and sitting close to and effectively acting as a constraint upon the design and layout of the balance of the employment allocation to the south and west. This type of self-imposed constraint is to be avoided at all costs, as the area of the site to be developed for employment uses must be developed to its full potential in order to best meet strategic

employment needs, especially as this 'need' provided the exceptional circumstances that justified the recent removal of the site from the Green Belt.

- 4.22. The way the allocation boundary is drawn, therefore, effectively compromises the delivery of both the residential and the employment site. This renders this aspect of the allocation unsound on the grounds of effectiveness and consistency with national policy.

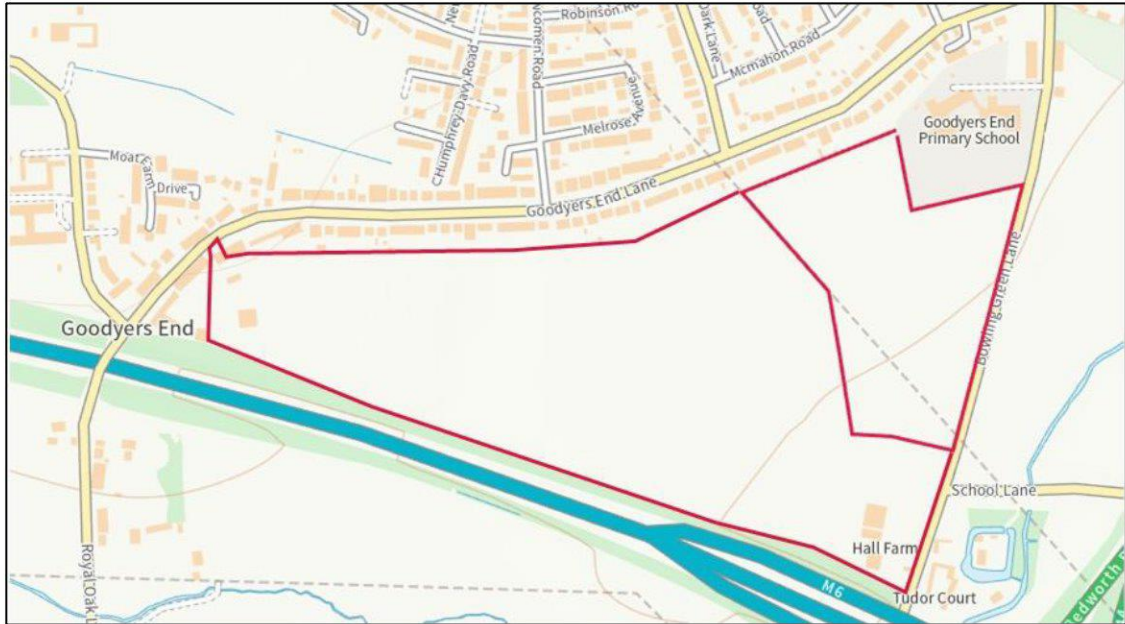


Figure 1 – Draft Regulation 19 allocation SEA6 boundaries

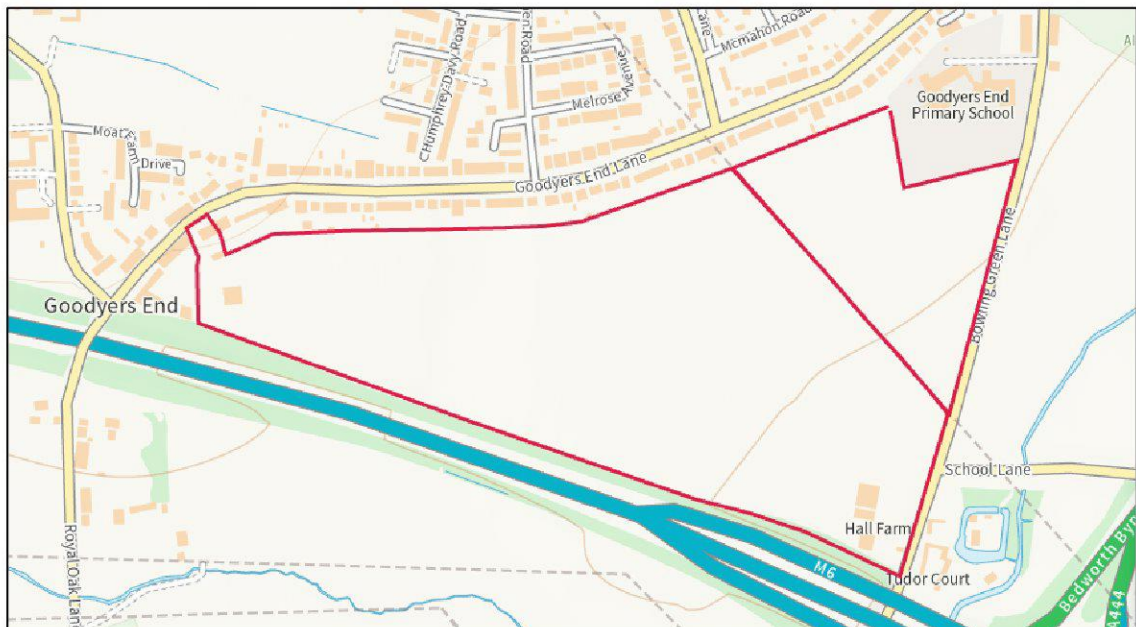


Figure 2 – Proposed Draft Regulation 19 allocation SEA6 boundaries

- 4.23. The remainder of this section references the numbering and heading within strategic policy SEA6: Bowling Green Lane.

Key Development Principles

- 4.24. Principle 1: the site area should be amended to reflect the revised allocation boundaries which are required to be amended as identified above in order to be sound.
- 4.25. Principle 2: as noted in section 3 above, in relation to Strategic Policy DS4, the number of homes to be provided should allow flexibility where, for example, a care home may be provided on site or other policy constraints may limit the ability to achieve the 150-home target. It is noted that whilst the Strategic Policy DS4 references the 150 homes as an approximate figure, Strategic Policy SEA6 identifies it as a minimum figure. Principle 2 should be amended to incorporate flexibility in order to make it sound.
- 4.26. Principle 3: the principle addresses the detail of the proposed access onto Bowling Green Lane serving the employment site. The policy should recognise that the residential site is likely to secure an independent access to avoid potential conflict between employment and residential uses separated as they will be by the presence of the electricity pylons and intervening green infrastructure.
- 4.27. Principle 8: it will be necessary for the policy to provide evidenced justification of how development at the site would give rise to a requirement for a contribution towards increased personnel and vehicles for Warwickshire police. Absent a CIL Regulation 122 level of evidential justification, then the requirement expressed by Principle 8 would not be sound as it would not be consistent with national policy.

Form of Development (FoD)

FoD 10. Ecological enhancements to existing boundary on southern and eastern edges of the site.

- 4.28. The requirement expressed at FoD 10 is unsound. It is imprecise and it is unjustified by evidence. As noted elsewhere, the site is allocated to achieve a strategic employment function, this will necessitate development of large footprint buildings. Policy already requires the demonstration of biodiversity net gain (expected to be mandated at 10% post January 2024). The applications currently before the Council already demonstrate how biodiversity net gain can be achieved whilst securing these strategic objectives. However, with specific regard to the boundary adjoining the motorway there appears to be some lack of clarity as to the boundary treatment expectation in this location. The existing ecological corridor in as much as it exists, is actually contained predominantly within Highways England land.
- 4.29. It should also be noted that the visibility of the site from the M6 was one of the 'exceptional circumstances' which justified this site being removed from Green Belt and allocated for employment development in the current Local Plan. This was regarded as necessary to help attract investment into the area (see quote from Inspector's Report referenced at paragraph 4.4 above). The complex nature of the site topography and the requirement to maintain access through to the western end of the allocation will require the location of an access road parallel to the motorway corridor.
- 4.30. FoD 10 is imprecise in what it is seeking to achieve and especially the area to which it applies. In the light of the recognised requirement to enhance biodiversity net gain as a part of the development generally, this specific requirement serves no planning purpose, and should therefore be removed from the policy.

FoD 11. Provision of enhanced buffer in the south-eastern corner to protect the setting of the Exhall Hall scheduled monument and listed buildings, as well as ensuring that the scale of development does not detract from the prominence and importance of the listed buildings.

4.31. This criterion is unsound as it is inconsistent with national guidance. It sets as its test the protection of the 'setting' of the scheduled monument, however the NPPF is clear that when addressing heritage assets, it is impact upon their 'significance' which is the appropriate matter to assess.

4.32. In addition, the south east corner of the site sits at the site's low point and by necessity will be the area for the delivery of SuDS and the site drainage pond. This provides the potential for delivery of an appropriate buffer to Exhall Hall, but it remains the impact upon the significance of the Hall which is required to be assessed by the Framework, not the protection of a setting. It is further material to consider how the significance of the assets is already impacted by the close presence of the elevated M6 in this location.

FoD 12. Retain existing hedgerows and trees as part of the green infrastructure for any development. Enhance existing hedgerows with new planting where they have become fragmented. Retention of the public right of way within a landscape enhancement area either side of the route in order to form a strategic landscaping area through the centre of the site.

4.33. This criterion is considered unsound as it would create an ineffective policy incapable of delivering the strategic employment outcomes desired. The site has complex topography with significant level changes. As part of the preparation of the planning applications, Opus Land have undertaken a series of detailed land modelling (cut and fill) exercises to ensure that the site can be developed without the need to import or export significant volumes of soil to create appropriate development platforms.

4.34. The delivery of large footprint employment premises, of the type which were envisaged by the Inspector when supporting the Council's exceptional circumstances for releasing the site from the Green Belt, necessarily creates an environment where retention of existing internal site hedgerows and trees cannot be retained. To do so would be incompatible with the achievement of the allocation for strategic employment land.

4.35. That is not to say that new and compensatory planting cannot be secured once the site has been the subject of regrading and indeed the current applications demonstrate that significant hedgerow addition and tree planting addition can be secured. Boundary planting is largely unaffected by the applications and allocation, save for around the site access.

4.36. Specifically with regard to the Public Right of Way across the site, the current application proposes a diversion of the public right of way which would otherwise be required to sit between employment buildings and / or provide a major constraint to the location of build form development. Opus have proposed a diversion through the site to locate the PRoW within its own corridor and a newly landscaped setting. It is noted that in responding to the planning applications which proposed this realignment the PRoW officer has raised no objection. The policy is over prescriptive in this regard and should be amended to ensure that a route which is equally commodious is delivered through the development. This however should not be a prescriptive retention of the existing alignment.

FoD 13. Protected species assessment of areas of tall ruderal around field gate.

4.37. As drafted in the BPR Reg19 plan, FoD 13 is not effective in its delivery and thus found to be unsound. There are multiple 'field gates' which provide access to the site, which is currently in agricultural use. As drafted, this element of Policy SEA6 provides no indication of the location of the field gate for which a protected species assessment is required, and this is not an appropriate use of a strategic policy as it is not sufficiently precise, rendering it not positively prepared.

4.38. This matter would be simply rectified through more precise wording in the policy.

FoD 14. Habitat adjoining the motorway should be retained as an important wildlife corridor.

4.39. Opus object to the requirements of FoD 14 as drafted, it lacks reasoned justification as to where the corridor sits or in quantifying the value of the habitat. Opus believe the majority of the habitat on the banks of the M6 lie outside of the allocation boundary, and so any works to retain this habitat will not be deliverable as they would be outside of the boundary of a planning application. As this element is not deliverable, in its ineffective in its application and fails to meet the tests of soundness.

4.40. Further justification is required on the location of, and the area covered by, putative 'important wildlife corridor'. The southern site boundary is not designated as a wildlife corridor on the Borough Plan Review Publication Policies Map for Bedworth, nor is such a designation covered by the emerging policies map key.

FoD 15. Provision of landscape screening consisting of small groups of specimen trees interspersed amongst grassed areas and wildflower meadows.

4.41. The requirements of this element of SEA6 to incorporate wildflower meadows into a strategic employment development is not justified nor effective, failing to meet the tests of soundness. Opus therefore object to this and raise concern with the appropriateness of wildflower meadows within employment development. This requirement appears to have been included without sufficient consideration of the physical layout and appearance of strategic employment land and is, therefore, unjust and inappropriate in this regard.

4.42. It is unclear what parts of the development would require screening, to what extent.

4.43. As noted above, there is a requirement to secure biodiversity net gain already supported by policy as well as the implementation of the forthcoming Environment Act. How that BNG is secured is a matter of detail for an application and BNG Assessment, it is inappropriate for a strategic level policy without the support of any evidenced BNG metric to specifically identify wildflower meadow as an integral part of the landscape and BNG strategy for the site.

FoD 16. New development should be accompanied by woodland and tree planting to reduce its prominence within the landscape. Opportunities should be taken to enhance the urban edge through planting new trees and woodland.

4.44. Opus support the provision of new tree planting, with the two live outline planning applications supported by an Illustrative Landscape Masterplan that encompasses extensive hedgerow and tree planting across both the employment and residential elements of the site. This element responds positively to the requirements of the NPPF to protect and enhance biodiversity. While this specific element of criteria 16 can be found sound, Opus object to the requirement to provide woodland planting within SEA6.

4.45. Land encompassed by SEA6 was assessed in the Nuneaton and Bedworth Landscape Character Assessment (February 2023) (the “N&BLCA”) as being within the ‘Keresley Urban Fringe’. The N&BLCA states that within this area, woodland is present as ‘linear belts and blocks associated with the M6 and A444’. Due to the large development footprint/floorspace requirements generated by the strategic scale employment allocated by SEA6, the planting of woodland that would correspond with and respond positively to the landscape character as defined by the N&BLCA would render the site further undeliverable, as more internal space would be required for woodland planting in linear belts. This further demonstrates that criteria 16 is ineffective and not based on proportionate evidence, rendering it unsound. The practical delivery of belts of woodland planting across a strategic employment site, alongside the appropriateness of this given the allocated land use have not been fully assessed.

FoD 17. Scale and massing of building form around northern edge of site should be reduced due to proximity to residential properties.

4.46. Opus object to FoD 17 as worded in the BPR Reg19 plan as it is not justified and thus fails the tests of soundness. The policy lacks clarity in what is required by the phrase “should be reduced”. It begs the question “reduced from what, to what?” Opus have been working closely with the Council’s Development Management officers to ensure that the residential amenity of properties along Goodyers End Lane is protected by development of an appropriate scale. It is the nature of strategic employment buildings that they will have a uniform ridge height, what is important however, is that the relationship of that ridge height with existing properties respects their amenity. As drafted, the policy is ineffective as it does not provide any useful parameters to measure its outcome. It would more appropriately be worded to ensure that the residential amenity of residents is protected through any application submission.

4.47. The FoD also fails to reference the complex site topography, with site levels changing significantly across the allocation area. The policy element also fails to acknowledge that the delivery of strategic land at this location would require major reform of the land, and this in itself presents opportunity for the scale and massing to be reduced through land reform, rather than directly placing the onus on the buildings. For the development of strategic scale employment to be achieved, it should be acknowledged that there is a level of inevitability that the buildings will be of tall height and large mass. On this basis, the FoD 17 is not justified or effective, and is therefore unsound.

FoD 19. Explore opportunities to retain views towards Bedworth Water Tower.

4.48. Opus object to FoD 19 as it is not justified or effective and therefore fails the tests of soundness. The two outline planning applications were supported by a Desk Based Heritage Assessment, that was written following a scoping process with Archaeological Officers at the Council. The Water Tower was not required to be included in the study area, nor did officers at the Council require any mention of the structure in the planning application package.

4.49. Looking to the Council’s own evidence base, the Sustainability Appraisal (July 2023 – para 10.12.5) notes that Policy SEA6 requires development on the Bowling Green Lane site to ‘retain views towards Bedworth Water Tower, promoting positive outcomes for both the preservation of important views and the screening of development to mitigate landscape impacts’ (our emphasis). The document makes no reference to the ‘important views’ assessed in the Appraisal, nor does it define what the important views are, and why it should be retained. This lack of clear and appropriate evidence leads to this being an unjustified



criterion of SEA6, which fails to meet the tests of soundness, and is inconsistent with approach taken in respect of the planning application.

- 4.50. The tower is at such a distance from the allocation site (approximately 1.5km) that views are interrupted by existing agricultural fields, road boundary hedges and trees, and the existing built form of Bedworth. These elements interrupt views towards the Water Tower significantly.
- 4.51. The criterion is also unjustified as there is no clear indication as to which specific viewpoints that the Council intend to enhance with the policy criteria. Criteria 19 is also ineffective in its application as it conflicts with other criteria within SEA6. For example, criteria 9 requires the provision of a landscape buffer, 12 requires new hedgerow planting, and 15 requires landscape screening. This requirement for new landscaping, planting and screening itself will impact views to the Water Tower, meaning that the policy as drafted is undeliverable and ineffective.

Supporting Text: Flooding

- 4.52. Two Flood Risk Assessment and Sustainable Drainage Strategy reports were prepared for the outline planning applications. Both FRAs follow government (the NPPF) and local guidance on flood risk and were prepared in consultation with the relevant bodies. These reports therefore provide a fair and in-depth analysis of flood risk and drainage at the site. The supporting text of SEA6 requires that an *“appropriate assessment of the groundwater regime be carried out at the site-specific Flood Risk Assessment (FRA) stage.”* The justification for this is unclear as to date, in the course of the live applications, groundwater flood risk has not been considered to be an issue. A survey of nearby boreholes did not show any groundwater to at least 5m and is clearly not, therefore, an issue or a risk.
- 4.53. The supporting text goes on to state *“The report concluded that Sequential and Exception Tests are required for this site. The document should be considered as part of the further site-specific flood-risk assessment that will be required for any planning application.”* Opus object to this element on the basis that the requirement for Sequential and Exception Tests is inconsistent with national policy, and in any event these tests would not be required. As per NPPF Paragraph 162, the aim of sequential tests is *‘to steer new development to areas with the lowest risk of flooding from any source’*. The site is located in Flood Zone 1 and therefore defined as having a Low Probability of flooding, as per Table 1: Flood Zones (Paragraph: 078 Reference ID: 7-078-20220825) of the Flood Risk and Coastal Change Planning Practice Guidance. As the development is in Flood Zone 1, it would pass the sequential test, and in any event a Sequential or Exception Test would not be required for the site, which is already the subject of an allocation in an adopted development plan which has addressed this matter (see also NPPF Paragraph 166).



5. CONCLUSIONS

- 5.1. These representations have been prepared by Pegasus Group on behalf of Opus Land Nuneaton Limited.
- 5.2. Opus has an interest in Land at Bowling Green Lane, which forms part of the existing allocation with reference EMP7 in the Nuneaton and Bedworth Borough Plan 2011–2031 and the proposed allocation with reference SEA6 in the Borough Plan Review.
- 5.3. Opus supports the allocation of Land at Bowling Green Lane as a mixed-use site including employment development and residential development. Given the existing context of the Land at Bowling Green Lane, a mix of residential and employment development is considered the most appropriate use to take advantage of the Site's strategically convenient location for access to the strategic road network while ensuring that any impacts on the amenity of nearby residential development are mitigated.
- 5.4. Opus recommends the Council's policy on employment development should recognise the importance of the West Midlands, including the M6 transport corridor as a location for high-quality logistics and warehousing development of national economic importance being located within the Golden Triangle. The policy should confirm the addition of logistics supporting development as a priority for the Borough.
- 5.5. Whilst Opus support the allocation of land through Strategic Policy SEA6: Bowling Green Lane, they raise a series of objections to detailed policy content specifically that relating to the key development principles and form of development envisaged by the allocation which it is contended need to be amended in order to make the policy sound.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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