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Bourne House, Cores End Road, Bourne End,  
Buckinghamshire SL8 5AR  
Tel: 01628 532244  
Email: [bourne.end@walsingplan.co.uk](mailto:bourne.end@walsingplan.co.uk)  
Web: [www.walsinghamplanning.co.uk](http://www.walsinghamplanning.co.uk)

08 October 2021

Bath & North East Somerset Planning Policy Team  
Lewis House  
Manvers Street  
Bath  
BA1 1JG

By email

Dear Sir/Madam,

### **Local Plan Partial Update Regulation 19 Consultation August-October 2021**

#### **Representations on behalf of London Road Nottingham Ltd.**

I write on behalf of London Road Nottingham Ltd. to formally respond to the Council's Local Plan Partial Update Regulation 19 consultation.

London Road Nottingham Ltd. own the Hartwell Garage site on Newbridge Road, which is specifically dealt with by current Core Strategy site allocation Policy SB15, and a site at the Bath Business Park in Peasdown St John, which is covered by Policy ED2A.

These representations are made in the context of an outline application at the Hartwell Garage site to provide a mix of residential units and student accommodation which was allowed and planning permission granted in March 2021.

#### Background

In January 2019 we previously made representations on the Council's new Local Plan 2016-2036 Options Consultation, which itself was being undertaken in the context of the then-emerging West of England Joint Spatial Plan. However, following the withdrawal of the West of England JSP BANES are launching a revised timetable and updating parts of their current Local Plan.

In January 2019 the Local Plan 2016-2036 Options Consultation document confirmed that the proposed approach to the Hartwells Garage site did not require amendments to Policy SB15, and that the policy remained relevant and fit for purpose.

At the time we welcomed keeping the site allocation Policy SB15 as currently drafted, having previously confirmed with the Council how the delivery of student accommodation is only acceptable where it would not prejudice the achievement boosting the supply of standard market and affordable housing. The policy seeks the delivery of 80-100 dwellings on the site, which the current appeal proposal will achieve.



Subsequently, we made representations in June 2020 on the initial ‘Local Plan Partial Update Policy Review’ consultation document (dated April 2020). The focus of these representations was on the inclusion of Policy SB15 as a Policy to be reviewed.

We considered the approach to the consultation is unsound and that Policy SB15 should not be included on the list of policies for review.

Our representations also included comments on the proposed inclusion of Policies SB19 and SB20 into the review, emphasising the importance of flexibility to be built into any spatial approach towards PBSA across the City.

In February 2021 we made further representations to the Council’s Regulation 18 Local Plan Partial update consultation. This consultation confirmed Policy SB15 was a policy to be retained with no amendments proposed.

Separately, we have throughout the various consultation stages maintained our concern at the way new Policy relating to purpose-built student accommodation (“PBSA”) is being drafted and introduced. From the outset the Council have had a conclusion, and have worked to fill in the gaps and backfill evidence and justification to suit a direction of travel. The process of drafting Policy H2A has been unsound.

#### The current consultation

We welcome no changes to Policy SB15 by this current consultation. This approach is consistent with the January 2019, June 2020, and February 2021 consultations and the representations we have made in the interim.

The focus for these representations therefore is with regards to the spatial approach towards PBSA within Bath more generally, and specifically new Policy H2A.

Separately, Policy ED2A is relevant in respect of the Bath Business Park primary industrial estate.

This response therefore concerns the following policies:

- SB15
- H2A
- ED2A

A response form for each Policy is enclosed.

#### **Comments on Draft Policies**

##### SB15

We continue to welcome the omission of Policy SB15 from further review and to keep the wording as currently set out in the Development Plan.

We maintain the view that it is fit for purpose – something which officers agreed with in March 2020 at planning committee – and as demonstrated by the appeal decision, it is a Policy which will deliver the housing requirement as part of a mixed-use development including student accommodation.



## H2A

Our previous comments on the Council's proposed approach to the spatial distribution of PBSA in the Bath remain valid, the direction of Policy continues, for reasons we consider, to be unsound.

The process of putting the 'cart before the horse' continues, whereby the Council have a clear end goal in mind and are working to back-fill in the evidence and justification to achieving that.

We therefore reiterate our concerns which we have outlined in previous consultations. The way Policy H2A has been prepared is unsound.

Firstly, in June 2020, we made representations which set out why we considered the consultation to have jumped a stage in the consultation process by presenting a list of policies the Council wish to amend and inviting comment on the list without providing the thought process, evidence, or justification. We were being asked to comment on the inclusion of a list of policies for review, however why they were included in the list remains unclear, no evidence was provided as to why the text of the policies being referred to may require review.

In February 2021 the previous unsound consultation formed the basis of taking forward policy options and presenting text/content based on an unsound starting position which we made representations against.

In October 2021, the Reg 19 consultation presents a new Policy H2A which has from the outset been informed by an unsound process.

It is clear that from the outset the Council had a starting position and has been working to back fill in evidence and justification for progressing a Policy.

Turning to the content of Policy H2A, we previously emphasised the importance of how a broader spatial strategy and approach to PBSA in Bath needs to be considered as part of any future consultation.

New policy should build in flexibility to a spatial approach to student accommodation in the city, and should have sufficient scope to allow the decision taker to have regard to the potential of sites on an individual basis, both now and in the future over the course of the Plan period.

The constraints of both University sites – with only limited space available in which to balance the competing needs of the Universities such as specialised academic and research facilities which for operational reasons must be located on campus – means that it is impractical and unrealistic to expect all purpose-built student accommodation) to be built on campus.

New Policy H2A is in our view far too prescriptive to restrict from the outset PBSA to on-campus and only allowed on other sites in limited circumstances including where a need can be demonstrated with assistance from the universities. This requirement ignores the need for student accommodation to meet the needs of other educational institutions in the City. "Need" will change over time, it will be subject to short-term and longer term trends and Policy H2A as currently worded will be unable to respond to changing needs and market conditions. It is a highly inflexible Policy.

Furthermore, Policy H2A sets out a series of onerous criteria any off-campus student accommodation would be required to meet, and many of the criteria could easily be interpreted as being inappropriate. It offers significant (if not total) scope to object to all PBSA development for highly subjective reasons. In effect it provides the Council with the ability to reject all off-campus proposals for PBSA.



It is a policy that is not fit for purpose and is unsound in its wording, and we made similar comments along these lines in February 2021.

As we have previously emphasised, we are not suggesting that student accommodation would be appropriate on every site and it is by default a compatible use across the City, and it is acknowledged that there will be occasions where student accommodation including PBSA should be restricted and directed away from inappropriate sites.

However there are already a suite of adopted development plan policies which control the development of PBSA and any potential impacts which may arise from such development.

We do maintain that PBSA is on the whole an entirely appropriate use to be carefully and sensitively integrated on appropriate sites throughout Bath in order to avoid monotype developments or neighbourhoods, and to contribute to mixed and balanced communities, sustainable transport objectives, and to help support local businesses and the economy, all in accordance with the NPPF.

In conclusion, Policy H2A as currently presented would fail to realise the potential of individual sites and create unnecessary barriers to development.

Planning Policy should allow a site-by-site assessment rather than the application of broad-brush policies that are too prescriptive and inflexible. As we have set out previously, to fail to take account of individual site circumstances would be contrary to the objectives of the Plan and the NPPF.

Policy H2A has not been prepared soundly. Furthermore, the content of the Policy as currently proposed is unsound.

Policy H2A therefore needs considerable modification, or deletion.

## ED2A

We support the proposed wording of Policy ED2A, which is for the most part being retained in its current form.

London Road Nottingham Ltd. recognise the importance of the Strategic Industrial Estates including the Bath business Park at Peasdown St John, and will be bringing forward the site for the permitted uses in the near future.

## **Summary**

We welcome that there are no changes to the wording or supporting text of Policy SB15.

From the outset we are not of the view that Policy SB15 should be included in the previous consultation. The situation has not changed since January 2019 when the Council concluded that the policy remained relevant and fit for purpose and when no changes to the wording were proposed. There was no reasonable justification for Policy SB15 to be included in the June 2020 consultation document, and we welcomed the Policy being omitted from review by the February 2021 consultation. It is an allocated site in an adopted Development Plan, and development will come forward.

We do not have any comment on Policy ED2A, which is largely retained in its current form.



We continue to have concerns with the way Policy H2A has been progressed throughout the plan-making process, with the 'cart before horse' approach adopting a starting position and working back from there.

In terms of the content of proposed Policy H2A, we do not support it in its current form because it is inflexible, overly restrictive, and would undermine the objectives of the NPPF for development plans to support mixed and balanced communities, support economic development, and be responsive to changing trends and demands.

It is essential that Policies are flexible as the economy seeks to navigate and then recover from the challenges presented by the current COVID-19 crisis. The planning system should be a tool to unlock the potential of sites rather than restrict or hamper them.

Policy H2A is too prescriptive in its approach and contains onerous criteria which is highly subjective in its proposed wording. Any proposal could be considered unacceptable when assessed against the broad and subjective criteria contained within the Policy.

Policy H2A needs considerable amending, and further consultation, or deletion from the LPPU.

Finally, we maintain we reserve the right to comment on any policy in any future consultation document (e.g. housing, parking standards, student accommodation etc.) and/or Examination in Public of the Local Plan Partial Update.

Yours faithfully,



Tom Edmunds MPlan MRTPI  
Consultant  
tom.edmunds@walsingplan.co.uk

