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Our Ref: TS.LPC.2095

Via email: jdkemp@icloud.com

Bath & North East Somerset Council Local Plan Partial Update Examination
PO Box 241
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Dear Sir/Madam

**Examination of the Bath and North East Somerset Council Local Plan
(Core Strategy and Placemaking Plan) Partial Update
Hearing Statement**

This statement has been prepared by LPC (Trull) LTD. on behalf of Mr Alexander, who is a resident and landowner within the Bath and North East Somerset (hereafter referred to as BANES) boundary.

This statement specifically relates to Policy GB2 Development in Green Belt Villages, MIQ Questions **Q.111** and **Q.112** which relate to the content set out within our representations made in October 2021 to the Local Plan Partial Update Submission Version Consultation.

Q.111 Policy GB2 states that new buildings in villages in the Green Belt will not be permitted unless it is limited to infilling and the proposal is located within the defined Infill Boundary. Is this consistent with paragraph 149 of the NPPF which lists specific exemptions where new buildings are not inappropriate in the Green Belt, or the judgement of the Court of Appeal in Julian Wood v The Secretary of State for Communities and Local Government, Gravesham Borough Council [2015] EWCA Civ 1519?

The BANES Draft Plan (Reg19) Consultation August 2021 'Topic Paper: Policy GB2 Development in Green Belt villages' acknowledges at paragraph 2.3 that

"The current policy relies on HDBs and also separates residential development from other development. Paragraph 149 of the NPPF does not rely on or reference HDBs, nor does it specify residential development. The policy is therefore required to be updated."

At paragraph 2.4, the Council then states:

"A recent court of appeal judgement has also led to the need to update policy GB2. The decision concluded that the assessment of whether development is 'infill' is one of planning judgement. A defined settlement boundary is found to not be determinative in assessing what constitutes infill development. There is

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therefore a need for infill boundaries to be defined to give a clear indication as to where infill development could be acceptable, but that the policy also requires development to meet the definition of infill.”

On the basis of the above, we do not consider the proposed amendments to Policy GB2 are consistent with the NPPF or the Wood v SSCLG judgement. In many cases, including the village of South Stoke, the Council have (more or less) retained exactly the same boundary line which defines the current ‘Housing Development Boundary’ (‘HDB’) and simply renamed the boundary the ‘infill boundary’. By the Council’s own admission, a defined boundary is not determinative in assessing what constitutes infill development, regardless of the ‘name you give it’.

The following key passage from Sullivan’s LJ judgement in the Wood V SSCLG case is highly relevant in this case:

“12. Before this court it was common ground that whether or not a proposed development constituted limited infilling in a village for the purpose of paragraph 89 was a question of planning judgment for the inspector and the inspector’s answer to that question would depend upon his assessment of the position on the ground. It was also common ground that while a village boundary as defined in a Local Plan would be a relevant consideration, it would not necessarily be determinative, particularly in circumstances where the boundary as defined did not accord with the inspector’s assessment of the extent of the village on the ground. ...”

The HDB’s for a number of villages within BANES were defined and adopted within the Core Strategy & Placing making Plan (i.e. 2014 and 2017 respectively). Notwithstanding the fact that with regard to ‘limited infilling’, the NPPF’s policy does not rely on defined boundaries, villages throughout the district have changed dramatically since the HDB’s were adopted. Therefore, for the Council to simply ‘rename’ many of the village HDB’s to ‘infill boundaries’ and create a policy which only permits infilling ‘within the defined Infill Boundary’ completely contradicts both NPPF policy and the Wood V SSCLG judgement.

With specific reference to the village of South Stoke, and in accordance with ‘Annex 1: Proposed HDB changes in defining an Infill Boundary’ located within the Policy GB2 Topic Paper (2021), the changes between the existing HDB and newly proposed Infill Boundary are negligible, described as “*General realigning with site boundaries*”. It is our contention that the village of South Stoke “*on the ground*” does in fact extend further than the (re) defined Infill Boundary and is therefore inconsistent with the NPPF and Wood V SSCLG judgement.

Q.112 What is the justification for the specific village boundaries as shown on the Policies Map?

Notwithstanding our response to Q111 above which considers the wording (and related policy map ‘Infill Boundaries’ of Policy GB2 to be inconsistent with the NPPF and relevant case law, *even if* the principle of a defined village ‘boundary’ were to be considered acceptable, we wish to raise our concern over the distinct

lack of evidence and justification provided in support of the proposed village 'Infill Boundaries'.

The Council's 'Topic Paper: Policy GB2 Development in Green Belt villages (2021)' sets out a 'Methodology' at Section 3. As identified above, paragraph 3.1 of the Topic Paper states: *"The methodology devised for defining infill boundaries for the update to Policy GB2 covers both redefining HDB's as infill boundaries, and..."*.

The Council explain at paragraph 3.2 that the existing HDB's around villages within the Green Belt *"...were reviewed against the existing criteria for defining HDBs in order to take account of any changes in circumstances since they were last defined"*. The HDB criteria includes: *"a) Tightly defined around housing, excluding non-housing uses on the edge of the settlement"*. However, the NPPF does not define 'limited infilling' as needing to be between 'residential uses' only and therefore we consider this 'methodology' to be flawed.

In addition, no 'on the ground', comprehensive assessment or justification for any of the villages with a proposed 'infill boundary'. At paragraph 3.11 of the Topic Paper, the Council state that *"Parish councils have been informally consulted on the proposed boundaries prior to formal consultation"* which seems to be the only form of 'assessment' or justification prepared by the Council.

Villages clearly differ greatly in their spatial form, and furthermore, do not necessarily always have an 'active church' or village hall/parish hall (for a wide range of potential reasons). However, the Council's Topic Paper appears to lean on a recent planning appeal (ref: (APP/B3438/W/18/3211000) where an Inspector stated:

"The Oxford Dictionary defines a village as a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. It defines a hamlet as a small settlement, generally one smaller than a village and strictly (in Britain) one without a Church"

At Annex 2 of the Policy GB2 Topic Paper, the Council's 'assessment' of 'candidate villages' which do not currently have a defined boundary, but may 'qualify' for one, is set out. For a number of these villages, because they have 'no church', the Council have concluded that the settlement is a 'hamlet'. However, the Inspector's statement above acknowledges that the Oxford Dictionary defines a hamlet as 'generally one smaller than a village and strictly (In Britain) one without a Church'. Therefore, the definition of a hamlet relies on the presence (or not) of a church. The definition of a village does not rely on the presence of a church, and subsequently we consider the Council's 'methodology' to be far too general and not specific enough to the situation *"on the ground"*.

At the very least we would expect to see a 'spatial coherence' and 'local services' assessment undertaken through desk based research (i.e. google

maps) reinforced by a site visit to confirm (or otherwise) the true 'on the ground' extent of both the 'confirmed' and 'candidate' villages throughout the district.

With specific regard to the village of South Stoke, through our previous representations we have already explained to the Council that we consider their 'renamed' infill boundary does not accurately reflect the 'built up area' of the village based on the facts on the ground, and suggested potential amendments accordingly.

As is hopefully clear and evident, we have a number of significant concerns with the current Local Plan Partial Update proposals as published and applaud the Inspector for raising MIQs Q.111 and Q112 in relation to Policy GB2 Development in Green Belt Villages

I trust the above is clear however if you do wish to discuss anything please do not hesitate to get in touch.

Yours sincerely

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