



Solihull MBC Local Plan
Publication Stage Representation
Form

Ref:
(For official use only)

Name of the Local Plan to which this representation relates:

Solihull MBC Local Plan

Please return to psp@solihull.gov.uk or Policy and Engagement, Solihull MBC, Solihull, B91 3QB BY Monday 14th December 00:00

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This form has two parts -

Part A - Personal Details: need only be completed once.

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

Part A

1. Personal Details\*
2. Agent's Details (if applicable)
Title, First Name, Last Name, Job Title, Organisation, Address Line 1, Line 2, Line 3, Line 4, Post Code, Telephone Number, E-mail Address

(where relevant)

## Part B – Please use a separate sheet for each representation

Name or Organisation:

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

Paragraph  Policy **SO2** Policies Map

4. Do you consider the Local 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<br>Duty to co-operate | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/>            |

Please tick as appropriate

5. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

**Objection on behalf of the Chief Constable of the West Midlands Police (CCWMP)**

**Policy SO2 (Moat Lane Depot)**

1. **Policy SO2 is unsound because it does not include any reference:**

- to the need for financial contributions to Police infrastructure in the policy list of 'Likely infrastructure requirements', or
- cross-reference the need to comply with SLP Policy P15,

contrary to the requirements of NPPF paragraphs 34, 91, 95 and 127f) and PPG Paragraph: 004 Reference ID: 23b-004-20190901, Paragraph: 017 Reference ID: 25-017-20190901, and Paragraph: 144 Reference ID: 25-144-20190901.

**The Chief Constable of the West Midlands Police (CCWMP) considers it is essential to ensure that prospective developers of the allocated sites are aware**

of what infrastructure will be required in respect of each site. Police infrastructure requirements have been considered and tested in terms of viability within the SLP Viability Study. Therefore, in line with the requirements of both the NPPF and the PPG, there is a demonstrable case for the inclusion of Police infrastructure within Policy SO2, the policy would be unacceptable, and unsound, in to omitting the requirement for developer contributions towards police infrastructure from each site specific policy, including Policy SO2. As presently worded Policy SO2 is ineffective and inconsistent with the provisions of the NPPF and is, therefore, unsound.

2. Policy SO2 (Moat Lane Depot) proposes 90 dwellings to be built on the site within the plan period. This represents a significant proposal for which appropriate and proportionate infrastructure requirements should be met by the proposed development, including Police infrastructure.
3. The CCWMP has a statutory duty to secure the maintenance of an efficient and effective police force for its area and, the Council is also statutorily required to consider crime and disorder and community safety in the exercise of its duties with the aim of achieving a reduction in crime.
4. Section 17 of the Crime and Disorder Act 1998 states, *'Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area'*.
5. On behalf of the CCWMP we submit objections to the current wording of Policy SO2, for the reasons which follow, and request that modifications be made as per paragraphs 51 and 52 of this submission, to ensure that the Policy is sound.

## PLANNING POLICY

### The National Planning Policy Framework (NPPF)

6. The NPPF reminds us, at Paragraph 7, that the purpose of the planning system is to contribute to the achievement of sustainable development, with Paragraph 8 going on to identify the three overarching objectives (of the planning system), which includes "a *social objective*", which itself includes a requirement to support communities' health, social and cultural well-being.
7. Paragraph 16 of the NPPF confirms that Plans should be prepared with the objective of achieving sustainable development and should be shaped by effective engagement between plan-makers and local organisations and statutory consultees.
8. Paragraph 20 b) states that Strategic policies should set out an overall strategy for the pattern and scale of development and make sufficient provision for, inter alia, infrastructure for security, whilst Paragraph 28 of the NPPF relates to non-strategic policies, which it is stated "*can include allocating sites*" and states that these should set out more detailed policies for the provision of infrastructure at a local level.

9. Chapter 3 'Plan Making' of the NPPF, at paragraph 31, indicates that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, justifying the policies concerned. Paragraph 34 requires plans to set out the contributions expected from development. This should include "*other infrastructure*".
10. Paragraph 35(b) of the NPPF states that Local Plans are examined to assess whether they are 'sound', which necessitates an evaluation to determine whether they have been positively prepared, justified, effective and consistent with national policy. In terms of whether a plan is justified, they should be based on proportionate evidence.
11. Chapter 8 "*Promoting healthy and safe communities*" of the NPPF indicates, at Paragraph 91, that planning policies and decisions should aim to achieve healthy, inclusive and safe places which, inter alia, "*are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.*" With Paragraph 95 stating that planning policies and decisions should promote public safety and take into account the wider security and defence requirements (Author's emphasis).
12. These requirements are revisited under Chapter 12 "Achieving well-designed places" of the NPPF at Paragraph 127 f) which also requires planning policies and decisions to "*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder and the fear of crime do not undermine the quality of life or community cohesion and resilience*".

#### Planning Practice Guidance (PPG)

13. Paragraph:001 reference ID: 26-001-20191001 states that well-designed places can be achieved by taking a proactive and collaborative approach at all stages of the planning process. To be read alongside this guidance, The National Design Guide sets out the characteristics of well-designed places and highlights in the section entitled 'Public Spaces' that well-designed places should feel safe and help overcome crime and the fear of crime.
14. Paragraph: 001 Reference ID: 26-001-20191001 reiterates that paragraph 130 of the NPPF sets out that permission should be refused for development of poor design that fails to take the opportunity of promoting healthy and safe communities.
15. Paragraph: 004 Reference ID: 26-004-20191001 confirms that non-strategic policies can be used to establish more local and/or design principles for an area, including design requirements for site specific allocations.
16. The PPG also includes a section entitled 'Supporting safe communities', which emphasises that planning provides an important opportunity to consider the security of the built environment, those that live and work in it and the services it provides.
17. The PPG highlights the importance of Section 17 of the Crime and Disorder Act 1998 (as amended) which requires all local, joint and combined authorities to exercise their functions with due regard to their likely effect on crime and disorder and do all they can

to prevent crime and disorder. Crime for these purposes includes terrorism (Paragraph:009 Reference ID: 53- 009- 20190722).

18. Paragraph: 010 Reference ID:53-010-20190722 sub-titled '*How can planning help to achieve resilient places?*' states that good design that considers security as an intrinsic part of a masterplan or individual development can help achieve places that are safe as well as attractive, which function well and which do not need subsequent work to achieve or improve resilience. However, good security is not only about physical measures and design; it requires risks and mitigation to be considered in a holistic way.
19. The PPG confirms that good design means a wide range of crime from theft to terrorism are less likely to happen by making committing those crimes more difficult. It helps create safer places, infrastructure and buildings that are less vulnerable to terrorist attack and should an attack take place, where people are better protected from its impacts (Paragraph:010 Reference ID: 53-010-20190722).
20. In terms of Plan making, Paragraph 042 reference ID: 61-042-20190315 provides that in evidence gathering, strategic policy-making authorities where appropriate, will need to:
  - work with the Police and other security agencies to develop and implement a local strategy to guide proposals for appropriate security measures at public buildings and spaces;
  - work with local Police Counter-Terrorism Security Advisors, Crime Prevention Design Advisors, Designing Out Crime Officers and Architectural Liaison Officers where appropriate to ensure that they inform them of planning applications concerning the development of crowded places, transport hubs and critical infrastructure; and
  - involve Police and appropriate design advisers in the preparation of site allocations in emerging plans.
21. Paragraph: 004 Reference ID: 23b-004-20190901 of the PPG relates to planning obligations and provides that policies for planning obligations should be set out in plans and examined in public. Policy requirements should be clear so that they can be accurately accounted for in the price paid for land. Such policies should, inter alia, be informed by evidence of infrastructure and a proportionate assessment of viability. The paragraph emphasises that planning obligations assist in mitigating the impact of development which benefits local communities and supports the provision of local infrastructure.
22. In terms of the Community Infrastructure Levy (CIL) Paragraph 011 Reference ID: 25-011-20190901 states that charging schedules should be consistent with and support the implementation of up-to-date relevant plans.
23. Paragraph: 012 Reference ID: 25-012-20190901 provides that the relevant plan is any strategic policy, including those set out in any spatial development strategy. Charging schedules are not formally part of the relevant plan but charging schedules and relevant plans should inform and be generally consistent with each other.
24. In relation to the Levy, Paragraph: 017 Reference ID: 25-017-20190901 states inter alia, that charging authorities must identify the total cost of infrastructure they wish to

fund wholly or partly through the levy. In addition, the paragraph states that information on the charging authority's area's infrastructure needs should be drawn from the infrastructure assessment that was undertaken when preparing the relevant plan (the local plan) and their CIL Charging Schedule. This is because the Plan identifies the scale and type of infrastructure needed to deliver the area's local development and growth needs (see paragraph 34 of the NPPF). In addition, the CIL examination should not re-open infrastructure planning issues that have already been considered in putting place a sound relevant plan.

25. Paragraph: 144 Reference ID: 25-144-20190901 states that the Levy can be used to fund a wide range of infrastructure, including police stations and other community safety facilities.
26. Paragraph: 166 Reference ID: 25-166-20190901 confirms that developers may be asked to provide contributions for infrastructure in several ways. This may be by way of CIL or S.106 agreements. Authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in their infrastructure funding statements which infrastructure they expect to fund through the Levy.
27. Paragraph: 167 Reference ID: 25-167-20190901 confirms that the Levy is not intended to make individual planning applications acceptable in planning terms. As a result, some site-specific impact mitigation may still be necessary for a development to be granted planning permission. There is still a legitimate role for development specific planning obligations, even where the Levy is charged, to enable a local planning authority to be confident that the specific consequences of a particular development can be mitigated.
28. Paragraph: 169 Reference ID: 25-169-20190901 provides that the Levy delivers additional funding for charging authorities to carry out a wide range of infrastructure projects that support growth and benefits the local community. Authorities can choose to use funding from different routes to fund the same infrastructure. Authorities should set out in infrastructure funding statements which infrastructure they expect to fund through the Levy and through planning obligations (Regulation 121A). For example, a local authority may set out in their plan that they will use S.106 planning obligations to deliver a new school to serve additional pupils arising as a result of development on a strategic site. It would be equally appropriate to identify other essential infrastructure requirements, which would include Police infrastructure.
29. Paragraph: 170 Reference ID: 25-170-20190901 confirms that amendments to the regulations removed the previous restrictions on pooling more than 5 planning obligations towards a single piece of infrastructure. This means that subject to meeting the 3 tests set out in CIL Regulation 122, charging authorities can use funds from both the Levy and S.106 planning obligations to pay for the same piece of infrastructure regardless of how many planning obligations have already contributed towards an item of infrastructure.

## **JUSTIFICATION FOR MODIFICATIONS TO POLICY SO2**

30. It is clear that both the NPPF and the PPG confirm the great importance the Government places upon considering and addressing crime and disorder and the fear

of crime through both the plan-making and decision-making processes of the Planning System in England. Such matters are mentioned in the same breath as other considerations such as health and open spaces and are attributed the same weight within national planning policy and guidance. This is evident in NPPF chapter 8. 'Promoting healthy and safe communities' which requires that planning policies and decisions should aim to achieve healthy, inclusive and safe places. To ignore such a significant "social" matters within relevant policies of the Solihull Local Plan (SLP) would, in our opinion, render the Plan unsound.

31. It is entirely appropriate that the general aims of Policy P21 'Developer Contributions and Infrastructure Provision' are set out in more site-specific detail within each proposed site allocation for development in the Solihull Local Plan (SLP). NPPF paragraph 57 requires that, '*Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable...*' Inclusion of all likely infrastructure requirements within Policy SO2 will provide greater clarity for developers when considering infrastructure costs ensuring transparency and improving the deliverability and developability credentials for each proposed site allocation – which, in turn, will ensure that the policy is sound.
32. Therefore, the omission of any reference to the need to secure developer contributions towards ensuring 'safe places' by requiring developer contributions towards the maintenance of Police infrastructure has rendered the policy, as drafted, unsound.
33. To ignore the importance of all significant "social" matters within relevant policies of the SLP would, in our opinion, render the Plan unsound. The likely infrastructure requirements set out in the allocation policies should seek to ensure the proposed development is: viable; does not place an unacceptable burden on existing infrastructure; and creates sustainable communities which are healthy, inclusive and safe.
34. It is noteworthy that the Council has previously recognised the importance of such issues, and the need for suitable related infrastructure to be considered, within the existing Development Plan (2013) which recognised "emergency services" as being likely to attract infrastructure requirements and contributions, yet the current SLP makes no such mention and in that regard, it is submitted, that it has taken something of a backward step.
35. In order to meet the national policy objectives of ensuring safety, reducing crime and the fear of crime, it is vital that the Police are not under-resourced or deprived of legitimate sources of funding. The aim is to deploy additional staffing and additional infrastructure to cover the demand from new development at the same level as the policing delivered to existing households within the Borough. It follows therefore that additional development would generate a requirement for additional Officers and support staff and their associated additional personal equipment (such as, but not restricted to, workstations, radios, protective clothing, uniforms and bespoke training), along with police vehicles of varying types and functions.
36. If additional infrastructure for West Midlands Police is not provided, the level of growth envisaged in the SLP Draft Submission Plan will seriously impact on the ability of the Police to provide a safe and appropriate level of service and to respond to the needs of the local community. That outcome would be contrary to national policy.

37. With significant levels of development growth, the demands placed on the Police service increases as the local population increases. This demand is exacerbated by the significant major changes in the nature of crime and its associated consequent demands, particularly with regard to matters such as cybercrime, child sex exploitation and terrorism.
38. It is important to stress that increases in local population and the number of households do not lead directly to an increase in funding from central government or local taxation. There is a direct link between the demand for policing services and changes in the physical environment due to housing and economic growth, which have permanent and significant impacts on policing. It is therefore essential that new development assists in funding the associated demand on the Police service, over and above the status quo, via S.106 contributions/ CIL funding for infrastructure.
39. Securing contributions towards policing from the allocated major housing sites enables the same level of service to be provided to residents of new developments, without compromising frontline services. The consequence of no additional funding is that existing infrastructure will eventually become stretched to breaking point, putting policing under threat, adversely impacting upon the level of service due to predicted increased demands which in term would lead to increased fear of crime.
40. In the light of the above, it is contended that the SLP Draft Submission Plan should make express reference to the need to mitigate the direct and additional policing impacts that the anticipated levels of growth during the plan period will generate and to that end, specific reference to such ESSENTIAL contributions should be included within each of the Site Specific Policies, and in this case Policy SO2 (Moat Lane Depot) given the significant level of proposed new housing development.
41. Separate representations have been made, on behalf of the CCWMP, with regard to the complete failure of Policy P21 "*Developer Contributions and Infrastructure Provision*" of the SLP, to specifically identify West Midlands Police as infrastructure providers, either within the policy itself or the supporting text. It is a concern that despite both the SLP Viability Study (October 2020) including, and testing, S106 contributions towards various infrastructure requirements including West Midlands Police any such provision is not made with policy.
42. Whilst those representations in respect of the overarching Policy P21 are of direct relevance to these representations, which are being made in respect of site specific Policy SO2 – Moat Lane Depot, they are not fully restated at this juncture.
43. However, of direct relevance is Paragraph 484 of the supporting text to Policy P21, which states that new development will be expected to meet its own physical infrastructure needs and confirms that where proposals result in pressure on, inter alia, social infrastructure or creates a need for community facilities or open space, these will be secured through developer contributions. It is abundantly clear that crime and disorder, and the fear of crime are social issues and whilst not currently specifically referred to under Policy P21, the need for suitable levels of policing and associated infrastructure is a demonstrably relevant social matter.
44. Whilst this has been recognised by the Council within the Draft Infrastructure Delivery Plan (IDP) (2020), under Section 4.0 "*Social Infrastructure*", Paragraph 4.4.1 "*Police*



*and Community Support*", with reference back to the SLP Viability Study, for inexplicable reasons this clear acknowledgment of a case for viable (Social) Police infrastructure has not manifested itself within the SLP policies and it is maintained that this oversight renders the Plan unsound.

45. Despite the reference in paragraph 485 to the fact that site policies for each of the allocations set out the likely infrastructure requirements for each of the sites, that the Council has identified in the SLP, it is of significant concern to the CCWMP that whilst other likely infrastructure requirements have been identified, none of the site specific policies include any reference to the need for contributions for Police infrastructure. Such an omission should be rectified within the final version of the SLP.
46. On behalf of the CCWMP, we maintain that there should be express reference to the essential need for financial contributions towards the additional expenditure burden placed on West Midlands Police, as a consequence of the proposed planned growth.
47. As currently drafted, the SLP does not rely upon the more general infrastructure policy (Policy P21) for the site allocations policies for site specific infrastructure it clearly regards as essential, instead, each allocated site policy includes a full section, within the policy itself for the avoidance of any doubt, which lists the infrastructure requirements which should be included if and when development is forthcoming.
48. It is essential to ensure that prospective developers of the allocated sites are aware of what infrastructure will be required in respect of each site. Police infrastructure requirements have been considered and tested in terms of viability within the SLP Viability Study. Therefore, in line with the requirements of both the NPPF and the PPG, there is a demonstrable case for the inclusion of Police infrastructure within Policy SO2. The SLP would be unacceptable, and unsound, in omitting the requirement for developer contributions towards police infrastructure from each site specific policy, including Policy SO2.
49. It is stressed that this infrastructure requirement should not only be included with Policy P21, as is being proposed via separate representations on behalf of the CCWMP, but it is critical that such reference should also be expressed within each of the site specific policies as they relate to each of the allocated housing development sites, as listed under the paragraph 226 of the supporting text to Policy P5 "*Provision of Land for Housing*", and specifically in this case Policy SO2.

6. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local 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.

## Modifications sought

50. In light of the above, the CCWMP proposes that the following modifications to Policy SO2 be made (indicated in bold).
51. An additional sub-paragraph to be included under Paragraph 2 *“Development of this site should be consistent with the principles of the Concept Masterplan for this site, which includes the following:”*
- iii. ‘Create a place which is safe with a strong sense of identity, incorporating high quality design which meets ‘Secured by Design’ standards to reduce crime and the fear of crime and to this end applicants are encouraged to engage with the West Midlands Crime Prevention Advisor at the earliest opportunity.’**
52. An additional sub-paragraph to be included Policy SO2 – Moat Lane Depot under Paragraph 3 *“Likely infrastructure requirements will include”*
- vi. Developer contributions to Police infrastructure to ensure an appropriate level of service can be maintained so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.**

**Please note** In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

**After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.**

7. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

**No**, I do not wish to participate in hearing session(s)

**Yes**, I wish to participate in hearing session(s)

Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

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To address the Council's Responses and the Inspector's Matters, Issues and Questions

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

9. Signature:

Glenda Parkes

Date:

11/12/2020