



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*

**If an agent is appointed, please complete only the Title, Name and Organisation (if applicable) boxes below but complete the full contact details of the agent in 2.*

2. Agent's Details (if applicable)

Title

Mr and Mrs Nelson-Smith;
Mr and Mrs Les Edwards;
Nicholas and Timothy
Underwood; and Sonia
Smith

Mrs

First Name

(Please refer to agent)

Glenda

Last Name

Parkes

Job Title

(where relevant)

Director

Organisation

(where relevant)

Tyler Parkes

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 **431-436** Policy **P17A** 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 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

Policy P17A Green Belt Compensation, Paragraphs 431 to 436.

- Policy P17A is unsound on the basis that no evidence, methodology, sustainability appraisal or viability assessment has been provided to justify the strategy proposed in the SLP Green Belt Compensation policy P17A and linked site allocation policies. In addition, no mechanism has been set out to demonstrate how the proposed compensation measures sought on Green Belt land outside the ownership of the developer would be delivered – contrary to the requirements of National Planning Policy Framework (NPPF) paragraphs 31 and 35 d) and Planning Practice Guidance (PPG) Paragraph 003 Ref ID: 64-003-20190722.**
- The detailed objection and modifications sought to Policy P17A is set out as follows.
- NPPF paragraph 31 states, *‘The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.’*

4. NPPF paragraph 35 d) states, '*...Plans are 'sound' if they are...Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence...*'
5. SMBC are correct to be seeking to address paragraph 138 of the NPPF which states that, '*...plans should...set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.*' (our emphasis).
6. However, we contend that to be sound, there needs to be evidence of a justified methodology to demonstrate that the most appropriate strategy is being used in the interpretation of Boroughwide evidence documents such as: Green Infrastructure Mapping, landscape Character Assessment, Open Space Assessment, Habitats Regulation Assessment Screening Report, and site specific Ecological Assessments.
7. These evidence documents should, we contend, be the starting point for identifying the type of improvement which would be of most benefit to the purposes of including land within the Green Belt, and for identifying the locations where improvements to the environmental quality and accessibility of the remaining Green Belt are most needed when considered in the context of the size, location and quality of land proposed to be removed from the Green Belt.
8. To be justified, we suggest that an evidenced strategy is needed to demonstrate that each site allocation is required to deliver an equitable proportion of Green Belt compensation, when the characteristics of all proposed Green Belt site allocations are compared. For example after taking into consideration the current value of the site to the Green Belt purposes, whether the site is greenfield or brownfield, whether it makes a current contribution towards recreation and/or sport, the ecological value of the site in terms of the surrounding ecological network etc.
9. To be sound, it is also imperative that the proposed site allocations are deliverable. One aspect of this is to ensure that the housing sites are viable. It is therefore important to ensure that the Green Belt compensation policy P17A and associated Green Belt enhancement requirements, set out in the individual site allocation policies, are viable and sustainable and have been tested accordingly.
10. To be deliverable, it is also necessary for the policy requirements to have considered landownership issues. It would be unreasonable and undeliverable for a developer to be required, by the terms of a site allocation policy under the overarching aims of P17A, to carry out enhancement/compensation works on land where and over which they have no control. This control would need to be guaranteed over time to ensure that the enhancement is maintained and/or managed where appropriate. Therefore, evidence needs to be provided to demonstrate that a suitable mechanism is in place to ensure policy requirements are deliverable, where land is outside the applicant's control. This information has not been provided in the supporting documentation and therefore without this, the site allocation policies, in so far as they relate to Policy P17A and Green Belt compensation measures, and policy P17A are unsound.
11. The PPG references below substantiate the need for the Green belt compensation policy strategy to be appropriate, deliverable and to have considered land ownership issues.

12. PPG paragraph 002, reference ID: 64-002-20190722 states, revision date: 22 07 2019 states, *'Where it has been demonstrated that it is necessary to release GB land for development, strategic policy-making authorities should set out policies for compensatory improvements to the environmental quality and accessibility of the remaining GB. These may be informed by supporting evidence of landscape, biodiversity or recreational needs and opportunities including:*
 - *New or enhanced green infrastructure*
 - *Woodland planting*
 - *Landscape and visual enhancements (beyond those needed to mitigate the immediate impacts of the proposal)*
 - *Improvements to biodiversity, habitat connectivity and natural capital*
 - *New or enhanced walking and cycling routes*
 - *Improved access to new, enhanced or existing recreational and playing field provision.*
13. PPG paragraph 003, reference ID: 64-003-20190722, revision date: 22 07 2019 explains that, *'Identifying the scope for compensatory improvements is likely to require early engagement with landowners and other interest groups, once the areas of land necessary for release have been identified. Consideration will need to be given to:*
 - *Land ownership, in relation to both land that is proposed to be released for development and that which may be most suitable for compensatory improvements for which contributions may be sought*
 - *The scope of works that will be needed to implement the identified improvements, such as new public rights of way, land remediation, natural capital enhancement or habitat creation and enhancement and their implications for deliverability*
 - *The appropriate use of conditions, S.106 obligations and CIL to secure the improvements where possible. S.106 agreements could be used to secure long-term maintenance of sites.'*
14. Policy P17A states at paragraph 1 that, *'...compensatory improvements shall be proportionate to the extent of land being removed from the Green Belt...*' No further details have been provided, either within the supporting evidence documents or in the Policy Justification, to understand the basis on which this has been applied. The implication seems to be that the larger the area of Green Belt land lost the greater the Green Belt compensation that will be sought, commensurate with the scale of the loss.
15. Contrary to the requirements of NPPF 35 d), there is no evidence that alternative approaches have been considered, for example by also taking into account the quality of the Green Belt land which it is proposed will be lost. The 2016 'Green Belt Assessment' could potentially have been used as the starting point for assessment of the contribution a site currently makes to achieving the NPPF purposes of including land within the Green Belt, and therefore, used to inform the scale of improvements to the remaining Green Belt to compensate for the Green Belt value to be lost.

16. In order to test the equitable implementation of the strategy to require Green Belt compensation '*proportionate to the extent of land being removed from the Green Belt*', we have undertaken a detailed assessment of each proposed housing allocation in the Green Belt. Our findings can be seen in Table *TPP/P17A/T1* below and associated key *TPP/P17A/K1* below

Site Policy ref	Site area (ha)	Capacity (in SLP policy to 2036)	Green Belt Assessment Performance (2016)	Site Allocation Policy Green Belt Compensation (GBC) requirements for Each Site (see key below)
BC1	91	875	Part Lower, part Higher	A + B + C
BC2	6	110	Lower	D + E
BC3	7	120	Lower	C + F
BC4	14	200	Part Lower, part Higher	C + G
BC5	12	230	Moderately	C + E + G
BC6	4	80	Higher	C
BL1	23	350	Moderately	C + J + K
BL2	47	1,000	Moderately	L
BL3	14	300	Higher	H
HA1	5	100	Lower	No Green Belt Compensation required in Policy HA1 or on the Masterplan
HA2	3	95	Higher	No Green Belt Compensation required in Policy HA2 or on the Masterplan
HH1	6	90	Lower	C
KN1	11	180	Part Moderately, Part Higher	B + M + C + F + K + N + O
KN2	49	600	Lower	B + C + I + O + N
ME1	4	100	Lower	B + C + I + O + N
SO1	43	700	Part Lower, part Moderately	N + C
UK1	140	2,500	Lower	No Green Belt Compensation required in Policy UK1 or on the Masterplan

Table TPP/P17A/T1

Key *TPP/P17A/K1*: Amalgamated Summary of Green Belt Compensation Requirements in Site Allocation Policies

- A** Provision of a substantial new green infrastructure network, which maximises connectivity opportunities and includes new habitats and planting.
- B** Planting, including reinstatement of the historic hedgerow pattern, woodland planting
- C** Enhancement of the public rights of way network (including new walking and cycling routes connecting to the wider network, canal, access improvements to the wider Green Belt beyond the site boundary, footpath to services)
- D** Provision of improvements to specified recreation ground
- E** Enhancement of road corridor
- F** Creation of a significant area of public open space to complement the setting of a Listed Building or specified feature
- G** Creation of a significant area of public open space outside the site allocation area
- H** Public open space in the wider site and accessibility and green infrastructure connections to the Local Green Space
- I** On site green and blue infrastructure that is multifunctional and accessible
- J** Positive management of Local Wildlife sites

K	Replacement sports provision with enhanced facilities
L	Creation of Country Park
M	Improved landscaping
N	Biodiversity Enhancements
O	Public open space
17.	It is immediately evident from the above table of Green Belt compensation measures required by the site allocation policies, that there is no clear link between the scale of compensation required and the size of the site being removed from the Green Belt.
18.	It is particularly surprising that the largest proposed site allocation of 140ha Policy UK1 – HS2 Interchange has no Green Belt compensation requirement set out in the policy, despite the fact that at paragraph 858 in the Justification it states, ‘... <i>Compensatory improvements will be required for the loss of Green Belt as set out in the policy.</i> ’ The policy does not even have a cross reference to Policy P17A.
19.	<p>In the absence of Green belt compensation requirements set out in the Site Allocation Policy UK1, we assume that P17A paragraph 3 would apply follows:</p> <p><i>‘Where compensatory improvements have not been identified as part of the concept masterplans included as part of the Local Plan that the compensatory improvements are provided in accordance with the following hierarchy:</i></p> <ol style="list-style-type: none"> <i>i. Compensatory improvements to remaining Green Belt land adjacent to, or in close proximity to the development site;</i> <i>ii. Compensatory improvements to remaining Green Belt land adjacent to, or in close proximity to the settlement or area accommodating the development;</i> <i>iii. Compensatory improvements to remaining Green Belt land in an area identified for environmental improvements as part of the Council’s Green Infrastructure Opportunity Mapping.</i>
20.	There is no SMBC produced Concept Masterplan for the 140ha HS2 Interchange site (UK1). The hierarchy of Green Belt compensation improvements required at P17A paragraph 3 i to iii are open ended and it is unclear what, and how much Green Belt compensation might be sought at HS2 Interchange. It is therefore unsound that there is no supporting evidence to demonstrate the scale and type of Green Belt enhancement which the council will be seeking to satisfy NPPF paragraph 138 particularly given that the loss of Green Belt land here is by far and away, the most significant loss in the Borough.
21.	In respect of this and the majority of the Green Belt compensation requirements specified in the site allocation policies and referred to in paragraph 3 of P17A, there is no evidence to demonstrate that the Local Authority has considered deliverability on land which lies outside the site developer’s control.
22.	<p>Where site allocation policies state that there is a requirement for the ‘<i>creation of a significant area of public open space</i>’ outside the development area, such as in Policy BC3 - Kenilworth Road/Windmill Lane, Balsall Common and Policy BC5 - Trevallion Stud, Balsall Common no details are given in the policy, the Concept Masterplan document or in evidence documents to:</p> <ul style="list-style-type: none"> • define what is meant by ‘significant’; • identify where specifically the public open space is expected to be delivered; • evidence the need for this scale of compensation; • clarify landownership and acquisition cost issues; or

- set out the mechanism for delivering public open space on land not owned by the developer.
23. The lack of a deliverable and justified Green Belt compensation strategy is examined in more detail in relation to our experience as Agents for the owners of site allocation BC5 - Trevallion Stud, Balsall Common. As Agents for the landowners, we were emailed on 14th May 2020, by Maurice Barlow, Senior Development Officer, Policy and Delivery at SMBC with the following enquiry at point 5:
- 'For sites currently in the Green belt, what compensatory provision is being made to land remaining in the Green Belt in accordance with paragraph 138 of the NPPF?'*
24. Our response to this question via email dated 21st May 2020, states:
- 'The site is to be wholly developed and contained within strong new Green Belt boundaries formed by the surrounding roads. There will, therefore, be no 'remaining' Green Belt land, as referred to in NPPF para 138 ('compensatory improvements to the environmental quality and accessibility of remaining Green Belt land').*
- The draft masterplan demonstrates improvements to access to the remaining surrounding Green Belt by introducing cycle and pedestrian through routes across the site, with the environmental quality improvements inevitably being restricted to improvements to land within the site i.e. land which will no longer be within the Green Belt following allocation and development. The draft masterplan has been developed to retain mature trees and hedgerows with enhanced additional landscaping, including around the site parameters. Within the site, the open space includes these landscaped areas to form a series of connected green open spaces linking through the site to the adjacent highway, cycling and footpath network. The site is presently wholly private land with no public right of way/access. The permeability of the site with the new routes will add to the quality of the connectivity of area.*
- The site presently has low to moderate biodiversity, given that it has been used for intensively grazed for many years, as shown by the Habitat Survey undertaken by Cotswold Wildlife and already submitted to you by Seb earlier this week. Cotswold Wildlife has also been instructed to undertake an assessment of the biodiversity benefits that will arise from the range of enhancements outlined above, including from new domestic gardens that will give rise to an opportunity for a biodiversity net gain.'*
25. No further correspondence or conversations have taken place between ourselves and SMBC regarding the issue of Green Belt compensation since this email exchange.
26. Given that, on behalf of our Clients, we had explained in our response that they do not have ownership or control of any land which would be retained within the Green Belt following the proposed removal of Site BC5 from the Green Belt, it is therefore unclear why SMBC unilaterally made the decision to impose the undeliverable Green Belt enhancement requirement as follows, 'i. Creation of a significant area of public open space to the south of the site.' The justification for the requirement is also unclear.
27. This undefined 'significant' open space requirement to be delivered beyond the site boundary is proposed as a requirement in Policy BC5 (proposed under the overarching Policy P17A requirements) in addition to the additional more deliverable requirements: 'ii. *Enhancement of Wootton Green Lane corridor*; iii. *Enhancement of*

the public right of way network, including new walking and cycling routes connecting to the wider network.'

28. On 2nd November 2020, we submitted the following enquiry to SMBC:

'Having had a very brief look through the evidence published on Friday and the additional evidence loaded onto the website today, I am struggling to find details regarding the following matters which I am hoping you will be able to direct me towards:

- The justification for the Green Belt compensation measures sought on each proposed allocation and the evidence to support why more compensation is being sought for some allocations when compared to others. For example at Trevallion Stud, Balsall Common the policy seeks 'creation of a significant area of public open space to the south of the site' in addition to more standard requirements in other allocation policies. It is not clear what supporting evidence is relied on to justify the improvements to the quality and accessibility of the remaining Green Belt. It is also not clear how proposed compensation could be delivered given landownership issues, as you will appreciate, paragraph 003 Ref ID: 64-003-20190722 of PPG requires consideration of landownership and deliverability.'*

29. The response to our email received from Maurice Barlow, Senior Development Officer, Policy and Delivery at SMBC, dated 10th November 2020, states:

'The justification for Green Belt compensatory improvements lies in the requirement set out in paragraph 138 of the NPPF. Policy P17A in the Draft Submission Plan indicates that these should be proportionate to the extent of land being removed from the Green Belt, and sets out a hierarchy for determining improvements that will meet this requirement. This recognises that it may not always be possible to make improvements to remaining Green Belt. In the run up to finalising the Draft Submission Plan, we did give the opportunity to site promoters to offer compensatory improvements and in many cases the site policies reflect the response. However, we didn't always receive suggestions, and in these cases have included what we consider to be appropriate requirements. These reflect different site characteristics, will be additional to requirements for open space and biodiversity enhancement and would be considered in more detail at the planning application stage.'

30. Clearly, this response does not direct us to any evidence on which SMBC's decisions on Green Belt compensation requirements were made for each site to justify their strategy and demonstrate it has been equitably applied. There is no clarification about what matters were taken into consideration when making a decision on what compensation improvements would be sought when a land promoter does not have ownership of land outside the site being promoted and proposed for allocation for development and removal from the Green Belt.

31. The Cushman and Wakefield 'Viability Study', October 2020, provided as evidence in support of the Draft Submission Solihull Local Plan (SLP), states at paragraph 1.1 that, *'...The purpose of the report is to appraise the viability of proposed policies, and policy-compliant site delivery.'* However, this report does not include an assessment of the viability of the Green Belt compensation measures proposed in Policy P17A. Similarly, the AECOM Infrastructure & Environment UK Limited 'Sustainability Appraisal', September 2020, does not consider the implication of the policy. The lack of this evidence is contrary to PPG paragraph 003, reference ID: 64-003-20190722.

32. This means that the 17 proposed housing site allocation policies which propose removal of land from the Green Belt have not been tested for viability against all policy requirements and therefore SMBC is not able to demonstrate that they are deliverable. To be considered 'deliverable' NPPF Appendix 2: Glossary, requires the sites are *'available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years...'* The policy is therefore unsound as there is no evidence to demonstrate that the Green Belt compensation measures proposed can be delivered without threatening the viability of the proposed housing development.
33. In addition, a further concern is that one of the Green Belt compensation measures proposed in the site allocation policies (under overarching Policy P17A) is unsound because it does not meet the requirements of NPPF paragraph 138 in that it is seeking 'on site' improvements. Green Belt compensation improvements can only be sought on the 'remaining' Green Belt land. Two site allocation policies, KN2 and ME1, have a requirement to provide: *'On site green and blue infrastructure that is multifunctional and accessible...'* (our emphasis). It would be unsound for any Green Belt compensation measures to require improvements to land within the proposed site allocation which will no longer lie within the Green Belt once the SLP is adopted.
34. In summary, there is therefore no justification in the site allocation policies, supporting evidence or Concept Masterplan document, to demonstrate that the approach to Green Belt compensation is an appropriate strategy, taking into account reasonable alternatives, and based on proportionate evidence. With no adequate or proportionate evidence Policy P17A is not sound, as it does not meet the requirements of NPPF paragraph 31.

(End)

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.

35. Proportionate, robust evidence needs to be produced to explore the options for assessing the Green Belt compensation requirements which would be appropriate for each site allocation where Green Belt land would be lost. The evidence should ensure that the most appropriate strategy is adopted, taking into account reasonable alternatives. The evidence should not be produced with the aim of trying to justify the approach already implemented by the Local Authority, it should explore reasonable alternative strategies.
36. The Viability Study and Sustainability Assessment reports should be updated to take into consideration the implication of Policy P17A and associated site allocation policies where Green Belt loss is proposed.
37. Once the evidence has been provided, Policy P17A and all the site allocation policies which sit beneath this overarching policy, should be amended accordingly.

38. As a minimum:

- Any reference to Green Belt compensation/enhancement requirements which fall within the site should be removed – only compensatory improvements to the environmental quality and accessibility can be required in the remaining Green Belt land.
- Any reference to a requirement which is on land outside the control of the site landowners/developer or the council, should be either deleted, or the mechanism for delivery should be set out.
- Details of the Green Belt compensation measures required on the site resulting in the most significant loss of Green Belt, i.e. 140ha at HS2 Interchange (Site UK1), should be set out in Policy UK1 and on an agreed masterplan.

(End)

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:

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