



**Gladman Developments Ltd**

**North Somerset Sites and Policies: Part 2: Site Allocations Plan  
Examination Hearing Sessions**

**Matter 5 – Local Green Space & Strategic Gaps**

**April 2017**

## **Matter 5 – Local Green Space and Strategic Gaps**

### **5.1 Has the identification of Strategic Gaps (SG) been the subject of SA? Have the proposed boundaries been tested? How would the SG perform in terms of tests for sustainability?**

5.1.1 There is no evidence to suggest that the Strategic Gaps identified in the Site Allocations Plan have been subject to a Sustainability Appraisal, other than at a very broad and vague level as part of the Core Strategy examination (and subsequent re-examination of the remitted policies). It is crucial that the boundaries of the proposed strategic gaps are tested as part of the SA process to ensure that they have been examined against all reasonable alternatives, and to meet the relevant legal requirements. While the Council did undertake a review of the Strategic Gaps in October 2016, this cannot be taken as a proxy for a Sustainability Appraisal and notwithstanding this, the submitted version of the plan includes an area of proposed strategic gap which was specifically excluded in this Background Paper.

5.1.2 It is clear therefore, that the Council need to undertake a full Sustainability Appraisal of the Sites and Policies Plan, including the Strategic Gaps, to meet the legal requirements before the Plan can be found sound.

### **5.5 Do the SG listed at para 4.52 of the SAP, and shown on the Policies Map deliver CS Policy CS19?**

#### **i) Has the Council considered whether SG should be included around service and infill villages?**

5.5.1 The Council has proposed strategic gaps between lower tier settlements, as demonstrated by the proposed gap between Yatton and Congresbury.

5.5.2 Gladman do not consider that it is necessary or justified to include strategic gaps around service and infill villages, as Core Strategy Policies CS32 and CS33 already provide policy protection in this regard. As requested by Inspector Bore at the Remitted Policies Re-examination, flexibility has been built into these policies to allow residential development adjacent to smaller villages, **however such sites are subject to criteria which ensure that only sustainable development will be permissible**. As such, any development which is likely to cause significant adverse landscape harm, such as the erosion of a perceptual or functional gap between settlements, would not be acceptable in any event as it would not be considered sustainable.

#### **ii) Are the SG between Locking and Weston s Mare, and Nailsea and Backwell justified?**

5.5.3 Gladman do not consider that Strategic Gaps are necessary or justified as the existing wording of policies CS5, CS28, CS30, CS31, CS32 and CS33 provides adequate policy protection to ensure that any functional or perceptual gaps between settlements are protected.

5.5.4 Gladman strongly objects to the proposed amendment to the Site Allocations Plan as agreed by the Council's executive committee on 7<sup>th</sup> February 2016. Proposed Amendment 4 identifies an extension of the "Strategic Gap boundary between Weston-super-Mare, Hutton Parklands Village

and Locking” to the south to include land east of the Oaktree Caravan Park and west of the former Elm Grove Nursery site. An application by Gladman for a residential development on this area (ref. 15/P/1205/O) was recently refused by NSC.

5.5.5 **No evidence whatsoever has been submitted to the Inspectorate in support of the extension of the Strategic Gap to include this site, and absolutely no public consultation has been undertaken on this amendment.** Gladman make the following points in respect of this:

- The Council undertook a detailed review into the boundaries of the proposed Strategic Gap in October 2016. In respect of the gap between Weston-super-Mare and Hutton, no alterations were proposed save for an extension to the west to allow it to abut the settlement boundary of Weston. The land put forward in the February 2017 extension was not even considered. In respect of the gap between Weston-super-Mare, Locking and Parklands Village, no alterations were recommended and the report specifically stated:

*“...there is no identified need to amend the boundaries of this strategic gap”*

- In relation to the application referenced above in para 2.2.4, the Council’s landscape officer issued a consultation response which stated:

*“Note also that the site lies outside the proposed Strategic Gap between Weston-super-Mare and the villages to the southeast of the town. Landscape formed an important part of this evaluation”*

And

*“...the site is...well contained and well related to the village”*

5.5.6 Gladman submit that there is absolutely no justification whatsoever for the inclusion of this land within the strategic gap; indeed, it appears that it has been submitted at the last minute for inclusion within the strategic gap by the Executive Member for Housing to prevent development from taking place on this site, which incidentally falls within his ward.

5.5.7 Gladman has sought a legal opinion on this matter from Thea Osmund-Smith, which is attached to this Hearing Statement as Appendix 1. In this Opinion, it is suggested that pragmatically, the Council may wish to ask the Inspector to defer consideration of the Strategic Gaps policy until a hearing at a later date, to allow those who may want to comment on the proposed amendment to have the opportunity to do so in writing, before the issue is examined.

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## Appendix 1 – Legal Opinion

### Proposed amendment to Strategic Gap boundary between Weston-super-Mare, Hutton, Parklands Village and Locking

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#### OPINION

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#### Introduction

1. I am instructed in relation to an issue that has arisen in respect of the North Somerset Sites and Policies Plan, Part 2 Site Allocations Plan (“the SAP”). The Publication Version of the SAP, (October 2016) was consulted on between 7<sup>th</sup> November and 19<sup>th</sup> December 2016 and Gladman Developments Ltd (“Gladman”) duly made representations at that time. Gladman did not respond to the policy on Strategic Gaps (SA 9) as it did not relate to any of their sites or interests in the area.
2. Following a meeting of the Council’s Executive Committee on 7<sup>th</sup> February 2017<sup>1</sup>, the Council proposed further amendments to the Site Allocations Publication Plan to include a number of new housing allocations (including a Gladman site in Congresbury which recently gained Planning Permission) and to amend the Strategic Gap adjacent to Locking (“the proposed amendment”). The proposed amendment includes a site which is being promoted for housing development. These changes were not publicised.
3. On 24<sup>th</sup> February 2017, the Council submitted the Site Allocations Plan to the Secretary of State. The submission version of the Plan does not include the additional proposed allocations nor the proposed amendment to the Strategic Gap. They are included in further submission document SD20; ‘Proposed further amendments to the Site Allocations Plan Publication version following consideration of responses received.’
4. I am asked to advise on the process that North Somerset has followed with regards to the additional allocations and the proposed amendment to the Strategic Gap and what consequences this may have on the progress of the Local Plan Examination.

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<sup>1</sup> The Committee Report and Minutes are contained within SD19 / 20

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## Chronology

5. The following chronology is useful for understanding when the amendments came about in relation to consultation on the SAP.

Date	Event
<b>March 2016</b>	Consultation Draft SAP. The consultation ran from Thursday March 10 <sup>th</sup> until Thursday 28 <sup>th</sup> April 2016. There were 759 responses from 264 respondents
<b>October 2016</b>	Publication Version SAP. Consultation ran from Monday 7 <sup>th</sup> November 2016 until Monday 19 <sup>th</sup> December 2016. There were 465 individual comments.
<b>24<sup>th</sup> January 2017</b>	Report to Strategic Planning and Economic Development Policy and Scrutiny panel.

Paragraph 1.4 of the Summary explained that the publication version of the Plan had been consulted on and that was the version the Council intended to submit to the Secretary of State. It also commented that the Council should consider the responses received and decide whether any further amendments were required. The Report explains that the Council can recommend amendments to the Inspector, but that if the proposed changes are significant, then they will require approval by the Executive Committee at the 7<sup>th</sup> February meeting, and may involve a round of further consultation.

<b>7<sup>th</sup> February 2017</b>	Following a meeting of the Council's Executive, the Council proposed further amendments to the Site Allocations Publication Plan to include a number of new housing allocations (including a Gladman site which recently gained planning permission in Congresbury) and to propose a site in Locking as a Strategic Gap.
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The amendments are contained within Document SD20 which say that *"It is not considered that the proposed changes are significant so further public consultation prior to submission is not required."*

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<b>15<sup>th</sup> February 2017</b>	Schedule of comments received on the Publication Version SAP.
<b>24<sup>th</sup> February 2017</b>	The Site Allocations Plan was submitted to the Secretary of State for Examination.

There has been no further consultation.

## Opinion

6. As a result of the 7<sup>th</sup> February 2017 meeting, it is proposed that the Strategic Gap boundary between “Weston-super-Mare, Hutton, Parklands Village and Locking” is amended to include land to the south of the existing designation, the static homes on Fir Tree Avenue and the Caravan Park.
  7. However, no justification is given as to why the extension is needed, what the purpose of it is, or how a gap in that location would contribute to the aim of separation, and between which settlements. The Strategic Gaps Background Paper (SD13) (section 5) provides the background evidence and analysis on Strategic Gaps and concludes in respect of the Weston-super-Mare, Locking and Parklands Village Gap that:  
  
*5.18 Taking account of the above, there is no identified need to amend the boundaries of this strategic gap.*
  8. Similarly, in respect of the Weston-super-Mare and Hutton gap which seems to have been amalgamated in the Council’s proposed amendments with the Weston-super-Mare, Locking and Parklands Village Gap, it was decided that there was need to amend the boundary of the Strategic Gap, other than in a westwards direction, i.e. on the other side of Hutton to maintain separation with Weston-super-Mare. No issue between Hutton and Locking has been identified.
  9. Having been through that comprehensive process of evidence gathering, assessment and production of a Background Paper, it is unclear why the Council now considers that adding a spur to the south of the existing Weston-super-Mare, Locking and Parklands Village Gap is necessary or sound. I can find no explanation in any of the supporting evidence.
  10. Further, there has been no consultation on the issue, because as the Council’s document SD20 explains, the Council does not consider that the amendment is significant and so should not be consulted on.
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11. However, as explained above, the boundaries of the Strategic Gaps were subject to review as part of the evidence base to the emerging SAP. The proposed change to the Weston-super-Mare and Hutton gap was consulted on and those with an interest had an opportunity to make their representations. It is not clear why the position should be any different for the proposed amendment to the Weston-super-Mare, Locking and Parklands Village Gap.
12. I'm instructed that the area now proposed for inclusion is approximately 6.43 hectares and washes over a site that is controlled by Gladman with the potential to yield more than 100 homes. Plainly then, the matter is of some significance.

### **Should the Council have consulted on the proposed amendment?**

13. The PPG explains the following:

*"...Local planning authorities must publicise the version of their Local Plan that they intend to submit to the Planning Inspectorate for examination to enable representations to come forward that can be considered at examination. This is known as the publication stage."*

*Paragraph: 003 Reference ID: 12-003-20140306*

...

***"Publication and examination of a Local Plan  
What happens when a Local Plan is published?"***

*The publication stage plan should be the document that the local authority considers ready for examination. This Plan must be published for representations by the local planning authority, together with other "proposed submission documents", before it can be submitted to the Planning Inspectorate for examination. This provides a formal opportunity for the local community and other interests to consider the Local Plan, which the local planning authority would like to adopt. The specific publication requirements are set out at regulations 17, 19 and 35 (and 21) of the Town and Country Planning (Local Planning) (England) Regulations 2012.*

*Paragraph: 020 Reference ID: 12-020-20140306*

***What should the local planning authority do when submitting a Local Plan for examination?***

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*Having received any representations on the publication version of the plan, the local planning authority should submit the Local Plan and any proposed changes it considers appropriate along with supporting documents to the Planning Inspectorate for examination on behalf of the Secretary of State. A Statement of Representations Procedure should be published alongside the submission version of the Local Plan.*

*The submitted documents should include those that were made available at the publication stage (updated as necessary), including details of who was consulted when preparing the Local Plan (at regulation 18 stage) and how the main issues raised have been addressed. The local planning authority must also include details of the representations made following publication of the Local Plan and a summary of the main issues raised – see regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.*

*Paragraph: 021 Reference ID: 12-021-20140306*

14. Thus it is clear that, in accordance with regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012/767, before submitting a local plan to the Secretary of State, the LPA should consult on “proposed submission documents” which are defined by regulation 17 as including:

*“(e) such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan; ...”*

15. SD20, and in particular, the proposed amendment is plainly such a document, and should have been consulted on. It is highly relevant to a longstanding policy designation, and those with an interest in the amendment should be afforded “a formal opportunity” to consider it as the PPG and the Regulations expect. That is particularly so when Strategic Gaps were subject to scrutiny though the Background Paper and amendment to the Weston-super-Mare, Locking and Parklands Village Gap was not regarded as necessary or appropriate. There appears to be no justification or rationale for extending the boundary at this stage or in the way now proposed by the Council. The Council’s most recent position is in fact contrary to its own evidence base.

16. Moreover page 6 of the Council’s Statement of Community Involvement (SD21) says the following:

*d) We will formally publish the submission document (or equivalent under any revision to the relevant regulations) for formal representations to be made. The formal consultation period will be a minimum of six weeks.*

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*e) An additional consultation period may be necessary following submission if pre- examination modifications are required, or if the inspector proposes modifications and consultation on these.”*

17. The proposed amendment to the Gap is plainly an important pre-examination modification. The issue is a matter that arose prior to submission of the SAP for examination, and thus, according to the Council’s own SCI should have been consulted on. People with an interest in the SAP, and the land in particular should be told about the proposals so that they have ample time to make formal representations. Those instructing became aware of the amendment because of their particular interest in the site. However, there may be others who would wish to comment on the amendment of the boundary who have not found out about the Council’s proposals; they would have a legitimate expectation arising from the SCI that they would be consulted on such an amendment and have been deprived of the opportunity to do so.
18. I note that there is a distinction to be drawn between the proposed amendment to the Gap, and the inclusion within the SAP of sites that have been granted planning permission. In respect of the latter, it is clear that those sites have been subject to adequate consultation through the planning process. Further consultation would be unlikely to raise anything new, and could not alter the fact that permission has been granted. The position is of course very different in respect of the expansion of the Strategic Gap - the proposal is presently bereft of any analysis, evidential basis, or indeed consultation with those who might have an interest.

## **Conclusion**

19. The Council’s reason for not consulting on the proposed amendment to the Strategic Gap turns on the fact that it is not considered “significant.” For all the reasons set out above, that is wrong, and formal consultation should take place in respect of the proposals. The lack of any evidential basis for the proposals makes the case for consulting on the proposals even more compelling.
20. The normal time period for consultation is of course six weeks and there is insufficient time before the scheduled hearings to accommodate that. Pragmatically, the Council may wish to ask the Inspector to defer consideration of the Strategic Gaps policy until a hearing at a later date to allow those who may want to comment on the proposed amendment to have the opportunity to do so in writing before the issue is examined. That would appear to be the only way to avoid any prejudice that might arise through the Council’s failure to consult.
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21. I trust I have covered all those matters on which I was asked to advise, but those instructing should not hesitate to contact me if I can be of further assistance.

**Thea Osmund-Smith**

**No5 Chambers**

19<sup>th</sup> April 2017

**Re: Proposed amendment to Strategic Gap  
boundary between Weston-super-Mare,  
Hutton, Parklands Village and Locking**

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**OPINION**

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