

**Chiltern and South Bucks
Local Plan Examination**

**RESPONSES TO PARTICIPANT SUPPLEMENTARY
HEARING STATEMENTS**

by

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FloD DipSurv MRICS

on behalf of

Brown Not Green Chesham Ltd

Representor ID 1224822

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Public Examination Stage 1

Topic Matter # 1

Issues 1 – Duty to Co-Operate

1. INTRODUCTION:

- 1.1. This Statement is submitted by Phillip Plato MRICS on behalf of Brown Not Green Chesham Ltd (BNG see www.brownnotgreen.com).
- 1.2. This Statement offers comments in response to the various supplemental submissions made by Participants who responded to the Inspector's circular of 16th March 2020 inviting supplementary submissions in the interim upon the Agenda of Matter #1 Issue #1 for the now postponed Stage One Hearing sessions. .

2. **COMMENTS BY BNG ON SUPPLEMENTARY HEARING STATEMENTS – MATTER 1 - Duty to Co-Operate (DtC)**

- 2.1. BNG do not seek to repeat the comments of others or the comments we have already made but note that several other Participants share our key concerns. Namely that the DtC has not been fulfilled, the Plan is unsound, and the suggestions for early reviews are unworkable and undermine the permanence of the function of GB and the associated provisions in NPPF.
- 2.2. We consider the situation between Chiltern & South Bucks (CSB) and Slough Council demonstrates a stark failure in the Duty to Co-operate. Slough Council state: *"Incredibly neither of Slough's formal representations to the Issues and Options consultation or Green Belt Preferred Options consultation have ever been reported to a public Committee of Chiltern or South Bucks Councils. This means that not only have Members not been properly informed of the results of public consultation, they have never been asked to respond to the request for there to be a Northern Expansion of Slough to meet local housing needs, including some of Slough's unmet needs"*.¹
- 2.3. We do not consider that CSB addresses these failures merely by remarking upon the partial reference in the Regulation 19 consultation response by Slough. We were shocked to read more details of the threatened judicial review and do not consider their explanation justifies this action on a report which clearly adds to the evidence base. We also note that CSB have been previously warned on failures under the DtC².

¹ See Supplementary HS by **Slough BC** – Page 2, third paragraph.

² See Supplementary HS by **SPRU for Beaconsfield Society** – paragraph 2.8 referencing Bucks CC responses to Green Belt Preferred Options Consultation (Dec 2016) and Appendix 12 to the Michelle Bolger Landscape Report.

- 2.4. Regardless of other points recited by CSB, we consider this is a stark failure under the DtC. There is no credible case in which this is *constructive* engagement, nor *effective* engagement.
- 2.5. We do not consider amendment and an early review is lawful in the manner proposed by Slough and others; nor is it *sound* in the circumstances of this authority.
- 2.6. It is not lawful because the DtC is a *prior* duty. Any failure in the DtC cannot be rectified once the Plan has been submitted for Examination because the DtC applies specifically to Plan preparation (s.33(A)(3) Planning and Compulsory Purchase Act), and Plan preparation ends when the Plan is submitted for Examination.
- 2.7. The PPG states at Paragraph: 031 Reference ID: 61-031-20190315 “ *As the duty to cooperate relates to the preparation of the plan it cannot be rectified post-submission, so if the Inspector finds that the duty has not been complied with they will recommend that the local plan is not adopted and the examination will not proceed any further. The most appropriate course of action is likely to be for the local planning authority to withdraw the plan and engage in the necessary discussions and actions with other relevant local planning authorities and bodies. In these circumstances the local planning authority will need to re-publish the revised plan for consultation before it is re-submitted for examination*”.
- 2.8. However, we also note that there are a number of members of the community who are not able to participate in making representations now.
- 2.9. It should be remembered that this local authority will cease to exist from this Wednesday on 1 April 2020 and insofar as this LPA may prevail at all, it will then merely be a “legacy authority”. It is unclear how CSB could lawfully undertake DtC discussions in those circumstances nor how any subsequent public consultation or re-publishing of the Local Plan would be undertaken, let alone considering how this will take place given the unprecedented current public health crisis. In all these circumstances it is not appropriate to move forward with these failings. The plan should be withdrawn, and the new Unitary Authority engage in necessary discussion and actions going forward in due course.
- 2.10. More generally the Plan is unsound as is reflected in comments RE: WAGS, SoCG & Infrastructure for Transport/MSA’s. We support many other comments that have been made by several Participants and we would highlight three in particular whilst commenting on a fourth:
- (1) We support the comments of **Peter Brett Associates for Chalfont Heights Road Committee** in relation to WAGS, ...”*It would seem that the Chiltern and South Bucks Local Plan is somewhat premature in that it has been prior to this piece of work being*

undertaken and prior to the establishment of the new Unitary Council that will be moving towards a Bucks wide plan considering growth on a Bucks wide basis.”³ We would merely add that we consider it is premature, not somewhat premature. This is the work that should have informed the Plan preparation.

- (2) We support the comments of **SPRU for Beaconsfield Society** in full. We support particularly that *“that this is not the first time that Chiltern and South Bucks Councils have been made aware of issues with its strategic-level assessment of growth options and justifications for the spatial strategy and potential for exceptional circumstances to be demonstrated”⁴ and reference our own submissions⁵ on the lack of proper assessment and lack of justification for the spatial strategy. We share their views that adopting a review process is not practicable and that it *“would mean 3 new development plans for Chiltern and South Bucks, in the space of less than 5 years; the submitted Plan, the ‘partial review’ plan and the Buckinghamshire Local Plan, which is required to be adopted by 2025”⁶* This is frankly ridiculous and undermines the purpose of a plan-led system, as well as the provisions in the NPPF as to greenbelt release.*
- (3) It is irrelevant whether Inspectors on the Aylesbury Vale DC and Wycombe Local Plan Examinations considered those councils had at that time met the DtC, as noted by **Aylesbury Vale DC**.
- (4) We also note some parties support our view on the provision MSA’s and that these are a *strategic* matter, including **Troy Planning for Chalfont St Peter**.⁷ The point is also made that at least two of the proposed MSA’s are in proximity to areas subject to GB housing allocations also, but there has been no allocation or guidance in the Plan on MSA provision and the cumulative impact of such developments with nearby Green Belt housing allocations could be significant. Green Belt allocations and the poor process around site selection methodology is a major concern to BNG.

3. CONCLUSION:

BNG submit that the aforementioned comments illustrate that the DtC has not been fulfilled, the Plan is unsound, and the suggestions for early reviews are unworkable and undermine the permanence of the function of Green Belt and the associated provisions in NPPF.

³ See Supplementary HS by **Peter Brett for Chalfont Heights Road Committee** – Page 1 last paragraph.

⁴ See Supplementary HS by **SPRU for Beaconsfield Society** – paragraph 2.8.

⁵ Including **BNG’s Attendance Note** of discussions with CSB Officers in Dec2017 where issues of lack of exceptional circumstances were raised

⁶ See Supplementary HS by **SPRU for Beaconsfield Society** – paragraph 2.19

⁷ See Supplementary HS by **Troy Planning for Chalfont St Peter** – Page 8