



**Ipswich Local Plan Examination
Hearing Statement
Matter 1: Duty to Co-operate and Legal Compliance**

Humber Doucy Lane, Rushmere St Andrew

Prepared on behalf of Bloor Homes

November 2020

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Site Name:	Humber Doucy Lane, Rushmere St Andrew
Client Name:	Bloor Homes
Type of Report:	Hearing Statement
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1.0 Introduction

- 1.1 This Hearing Statement is submitted on behalf of Bloor Homes in relation to their site at Humber Doucy Lane, Rushmere St Andrew.
- 1.2 Bloor Homes have previously made representations to the Reg 18 and Reg 19 consultations of the emerging Ipswich Local Plan Review (ILPR) in March 2019 and March 2020 respectively.
- 1.3 In summary, those representations set out various concerns with the Plan that result in it being unsound. Modifications have been suggested to overcome these concerns and make the Plan sound.

2.0 Matter 1: Duty to Co-operate and Legal Compliance

Issue 1a: Whether the Council has complied with the Duty to Co-operate (DtC) in preparing the ILPR?

- 2.1 In relation to question 1, we do not believe that the Council has engaged constructively on all ‘strategic matters’. Housing and associated infrastructure are key strategic matters, particularly given the constraints presented by the administrative boundary and the Council have not adequately demonstrated that they have positively engaged with neighbouring authorities to meet their identified needs.
- 2.2 As Bloor Homes have raised in previous representations (ID: 26586) and in relation to Matter 3, the ILPR evidence base clearly shows that for market housing, the greatest need is for houses with at least three bedrooms. As set out in previous representations, 61% of dwellings allocated in the ILPR are at a high density, which the ILPR recognises will be predominantly one and two bedroom flats.
- 2.3 This clearly does not meet the actual needs of residents and the Council should therefore have considered all opportunities to rectify this to ensure that the ILPR seeks to meet identified needs.
- 2.4 Recognising the constraints caused by the administrative boundary, the Council should have engaged with neighbouring authorities to explore opportunities to deliver more housing of at least three bedrooms to meet identified needs.
- 2.5 Instead the Council appear to have viewed the ILPR in a very insular way (ID: 26581), seeking to meet the overall housing number within their own administrative boundary rather than taking a positive approach and engaging with their neighbouring authorities to produce a plan that not only meets the overall number, but truly aims to meet the identified needs.
- 2.6 Given the constraints faced by Ipswich, having a collaborative approach similar to the Greater Cambridge Partnership and the South Essex Joint Strategic Plan appears entirely pragmatic and would comply with the Duty to Co-operate. However, this is not present here despite the clear links between Ipswich and its surrounding area. To view a plan in isolation and in such an insular way is not compliant with the Duty to Co-operate and does not deliver housing and infrastructure in a positive manner.

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- 2.7 In response to question 2, we do not believe that the Council's approach to Duty to Co-operate has maximised the effectiveness of the preparation of the ILPR. As set out, the ILPR does not adequately allocate sites to meet identified needs, contrary to the provisions within the NPPF.
- 2.8 The NPPF is clear at paragraph 26 that joint working should help to determine whether development needs that cannot be met wholly within a particular plan area could be met elsewhere. To maximise the effectiveness of the ILPR, the Council should have engaged with neighbouring authorities about how to meet these identified needs, and sought to provide an effective strategy to achieve this. However, they have failed to do so.

Issue 1b: Whether the Council has complied in all other respects with the legal and procedural requirements in preparing the ILPR, as defined in Part 2 of the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Plan) (England) Regulations 2012 and the Conservation of Habitats and Species Regulations 2010 (as amended)?

- 2.9 In relation to question 8, Bloor Homes set out detailed criticisms of the Sustainability Appraisal (SA) in their Reg 19 representations (ID: 26591). Whilst we acknowledge that the Council have produced an SA Addendum (October 2020), this does not entirely rectify the defects we identified.
- 2.10 In relation to parts b and c of question 8, we raised concerns with the scoring process at Reg 19 stage, which has not been rectified in the Addendum and, if anything, is exemplified within it.
- 2.11 SA objective 2 is 'to meet the housing requirements of the whole community'. The SA Addendum gives a score of 'major positive' to the preferred spatial strategy, stating it would facilitate enough housing, including a large proportion of affordable housing and other types to satisfy the diverse and growing needs of the population. This gives no consideration to the actual allocations within the ILPR.
- 2.12 As set out in detail at Reg 19 stage (ID: 26585), assuming each site delivered affordable housing as set out in Policy CS12, only 38% of the total affordable housing need would be met over the ILPR period. In terms of market housing, 61% of dwellings will be high density,

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- i.e. one and two bedroom flats, contrary to the SHMA identifying the greatest need as being a minimum of three bedrooms.
- 2.13 Whilst the preferred spatial strategy will meet the housing requirements of some of the community, it clearly will not meet the requirements of the whole community. It is entirely inconceivable that the preferred option should score major positive in this regard.
- 2.14 In respect of SA Objective 11 (to reduce vulnerability to climatic events and flooding), our previous concerns are again exemplified in the SA Addendum. Spatial Option 2 (increased development beyond the boundary), scored minor negative in this regard as fluvial flood risk is present. However, the greatest areas of flood zones 2 and 3 are within Ipswich itself and to the south. The vast majority of land to the north and east of Ipswich is within flood zone 1, at least risk of flooding. Despite this, Option 2 scored minor negative.
- 2.15 In the SA Addendum, despite this context, the preferred option scored positive/negative despite acknowledging that some development will be located on land within flood zones 2 and 3. It states that some development taking place in flood zones 2 and 3 is '*to some extent, unavoidable*'. This is entirely untrue. Increased development outside the administrative boundary could meet the housing and infrastructure needs whilst being located on land at least risk of flooding.
- 2.16 Our detailed concerns regarding the SA scoring are set out in Appendix F of our Reg 19 representations (ID: 26591). As demonstrated above, the SA Addendum has not overcome these concerns and the decision making and scoring is entirely unclear and unjustified in many regards. With these issues in the scoring process, the SA cannot be considered robustly prepared as it does not provide a comparative or equal assessment of the different options.
- 2.17 Given the extent of the issues with the SA, we question whether it meets the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 ('the SEA Regulations'), and in particular Regulation 12 (2) and the requirement for the SA to *inter alia* evaluate the significant effects on the environment of the plan. Even if one were to conclude it did not fail this *legal* test, then the aforementioned concerns nevertheless go to the heart of whether the ILPR is *sound*.
- 2.18 Regulation 16 of the SEA Regulations requires *inter alia* that the reasons for the selection of the strategy and rejection of reasonable alternatives be set out. In response to question

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8(d), the Council does not provide clear reasons for not selecting reasonable alternatives given the fundamental flaws in the scoring process.

- 2.19 As question 8(e) sets out, it should be clear how the SA has influenced the ILPR strategy and policies. An assessment of the chosen spatial strategy was not carried out until October 2020 and yet the spatial strategy set out in the Plan was published in January 2019. Therefore, the SA cannot have influenced the spatial strategy chosen. As confirmed through *Cogent Land LLP v Rochford District Council* [2012] EWHC 2542 (Admin), defects in an SA can be cured at later stages in the process. However, the judgment in *Cogent* also confirmed that such later work to cure defects could not simply be an “ex post facto justification” of an already chosen strategy, i.e. the additional work must have a meaningful impact on the decision-making process. In this case, it is unclear how the SA Addendum has influenced the ILPR.
- 2.20 To rectify these issues within the SA, the scoring needs to be clearly undertaken in a consistent and fair manner. This would then allow a reasonable comparison of the different options. Crucially, the findings of such a process must also be used to inform the ILPR, including its spatial strategy.