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# Report to the Black Country Councils

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PLANNING AND COMPULSORY PURCHASE ACT 2004  
SECTION 20

REPORT ON THE EXAMINATION INTO THE BLACK COUNTRY CORE  
STRATEGY  
DEVELOPMENT PLAN DOCUMENT

Document submitted for examination on 26 February 2010

Examination hearings held between 13 and 27 July 2010

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## ABBREVIATIONS USED IN THIS REPORT

AAP	Area Action Plan
AMR	Annual Monitoring Report
BC	Black Country
BCS	Black Country Study (May 2006)
BCCS	Black Country Centres Study
C&I	Commercial and industrial waste
CD&EW	Construction, demolition and excavation waste
CIL	Community Infrastructure Levy
CS	Core Strategy
CSR	Comprehensive Spending Review
DC	District Centre
DIP	Delivery and Implementation Plan
DPD	Development Plan Document
dph	Dwellings per hectare
FPC	Further Proposed Change
GB	Green Belt
GTANA	Gypsy/Traveller Accommodation Needs Assessment
HMA	Housing Market Area
HNS	Housing Needs Survey
IDS	Infrastructure and Delivery Study
IIL	Inward Investment Location
JCS	Joint Core Strategy
KD	Key Diagram
LC	Local Centre
LDS	Local Development Scheme
LEP	Local Enterprise Partnership
LPA	Local Planning Authority
LTP	Local Transport Plan
MBC	Metropolitan Borough Council
MPS	Minerals Policy Statement
MSW	Municipal Solid Waste
MSA	Mineral Safeguarding Area
PC	Proposed Change
PDL	Previously Developed Land
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
PSA	Primary Shopping Area
RAL	Readily Available Land
RC	Regeneration Corridor
RELS	Regional Employment Land Study (2008)
RSS	West Midlands Regional Spatial Strategy
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SAD	Site Allocation Document
SC	Strategic Centre
SEA	Strategic Environmental Assessment
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Area Assessment
SRA	Strategic Regeneration Area
TC	Town Centre
UDP	Unitary Development Plan
WM	West Midlands

## **NON-TECHNICAL SUMMARY**

This report concludes that the Black Country Joint Core Strategy [JCS] Development Plan Document provides an appropriate basis for the planning of the area to 2026. The Councils have sufficient evidence to support the strategy and have shown that it has reasonable prospects of being delivered.

A limited number of changes are needed to meet legal and statutory requirements. These can be summarised as follows:

- Clarifying the wider context within which the JCS will be implemented, including in the light of the recent revocation of the Regional Spatial Strategy by the Secretary of State for Communities and Local Government;
- Making clear how retail needs will be met in accordance with national policy; removing Table 15 (Policy CEN3) and amending the policy as it relates to convenience shopping;
- Setting out more detail about how much additional office floorspace is planned in particular locations and clarifying how detailed proposals will be brought forward, particularly in West Bromwich;
- Minor amendments to ensure that the policies for different types of housing, including for gypsies and travellers, are consistent with national guidance, reflect local needs and allow flexibility to deal with local circumstances;
- Providing more detail on how any potential indirect effects arising from new development in the Black Country on the Special Area of Conservation at Cannock Chase in Staffordshire will be assessed and how and when any such mitigating action that may be required will be brought forward.

Nearly all the changes recommended in this report are based on proposals put forward by the Councils in response to points raised and suggestions discussed during the public examination. **They do not alter the thrust of the overall strategy at all.**

<b>LEGAL REQUIREMENTS</b>	
Local Development Scheme [LDS]	The JCS is identified within the approved LDS of each of the Councils [dates vary - e.g. Dudley – November 2009] which all set out an expected adoption date of March 2011. This should be achieved well in advance and the JCS is therefore generally compliant with each LDS.
Statement of Community Involvement [SCI] and relevant regulations	Consultation has been compliant with the requirements of each of the various SCIs [dates vary – e.g. Dudley – November 2006], including on the post-submission Proposed Changes [PCs] and the Further Proposed Changes [FPCs].
Sustainability Appraisal [SA]	SA has been carried out, independently verified and is adequate.
Appropriate Assessment [AA]	The Habitats Regulations AA Report [November 2008] and later update Report [June 2010] are adequate.
National Policy	The JCS broadly complies with national policy. We have indicated areas where it does not and changes are recommended.
Sustainable Community Strategy [SCS]	Satisfactory regard has been paid to the SCS of each of the Councils [dates vary – e.g. Dudley - March 2010].
2004 Act and Regulations [as amended]	The JCS complies with the Act and the Regulations.

## Introduction

- i. This report contains our assessment of the Black Country Joint Core Strategy (JCS) Development Plan Document (DPD) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004. It considers whether the DPD is legally compliant and whether it is sound. Planning Policy Statement (PPS) 12 (paras 4.51-4.52) makes clear that to be sound, a DPD should be justified, effective and consistent with national policy.
- ii. The starting point for the examination is the assumption that the local authorities have submitted what they consider to be a sound plan. The basis for our examination is the submitted JCS (February 2010), which is the same as the document published for consultation in November 2009, except for a schedule of minor Proposed Changes (PCs).
- iii. Our report deals with the changes that are needed to make the JCS sound. Nearly all of these changes have been proposed by the Councils as listed in Appendix A. The other changes that we require are set out in Appendix B. None of these changes materially alters the substance of the plan and its policies, or undermines the sustainability appraisal (SA) and participatory processes undertaken.
- iv. Some of the Further Proposed Changes (FPCs) put forward by the Councils following the examination hearings (Appendix A) are factual updates (e.g. about the RSS), corrections of typing errors, other minor amendments in the interests of clarity or the consolidation of errata from the PCs version into the FPCs version. Where they do not relate to soundness they are generally not referred to in this report, although we endorse the Councils’ view that they improve the plan.
- v. All the changes that the Councils have proposed following the submission of the plan have been subject to public consultation and we have taken the consultation responses into account. We are also content for the Councils to make the Further Minor Changes arising from the revocation of the RSS (August 2010) and any additional minor changes to footnotes, page, figure, para numbering etc, and/or correct spelling in the plan prior to final adoption.
- vi. To comply with the legislation it is necessary for all the changes in Appendices A and B to be subject to a recommendation in this report. This is set out in our Overall Conclusion and Recommendation.

- vii. References in our report to documentary sources use the reference number in the examination’s core documents list.

### **Changes needed for Soundness**

This section of our report considers the soundness of the plan. It deals with issues of soundness and subsequent recommendations on the basis of those recommended changes resulting from discussion and agreement between parties (Appendix A) and any other changes which we determine are needed following the examination debate but for which agreement was not reached between parties (Appendix B).

### **Preamble**

- viii. Just prior to the pre-examination meeting, the Coalition Government’s commitment to abolish Regional Spatial Strategies (RSS) was announced and immediately before the start of the examination hearings this element of the development plan was revoked. Also, PPS 3 has recently been re-issued with an amendment to the definition of previously developed land (to exclude private residential gardens), together with deletion of the national indicative minimum density of 30 dwellings per hectare. The Councils’ response about the implications of these matters for the JCS has been published and we have also taken all the representors’ comments into account.
- ix. Although the housing requirement for the BC was set out in the WM RSS, it was based on joint evidence from the Councils on the area’s capacity to accommodate growth. Also, the RSS requirements for gypsy and traveller accommodation reflected independently-assessed need and continue to be supported by the Councils as an appropriate basis for forward planning. The employment requirements, while reflecting the RSS, are similarly based on local assessments and carry forward locally-generated strategies, deriving originally from the Black Country Study (BCS) (May 2006). Overall, the RSS provisions for the area have been generally supported by respondents.
- x. In these circumstances we accept the Councils’ view that no significant alterations are required to the JCS in the light of the RSS revocation. However, the Councils wish to make some editorial changes so that the plan better reflects the up-to-date position in regard to RSS. For the avoidance of doubt, we endorse these changes.
- xi. The future housing supply for the area does not rely on windfalls to any significant extent and development on garden land

currently accounts for only a small percentage (e.g. about 2% in Wolverhampton) of all approved housing development in the BC. Policy HOU2, dealing with housing density, is also the subject of minor PCs by the Councils. Reading the policy as proposed to be amended and in the context of the plan as a whole, we are satisfied that it is consistent with the re-issued PPS 3, including regarding development on garden land.

## **Main Matters**

1. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings we have identified 23 main matters upon which the soundness of the plan depends. We also deal with a number of minor matters relating chiefly to the FPCs version of the JCS and possible amendments discussed at the examination, where necessary.

### **Matter 1 – Strategy - Issues:**

*i) Does the JCS provide an appropriate spatial vision for the future of the sub region over the plan period, consistent with national guidance in PPS 12 and the Sustainable Community Strategies [SCS]?*

2. It is essentially common ground that the only realistic alternative to the overall strategy of regeneration, focused firstly on Strategic Centres (SCs) and Regeneration Corridors (RCs), would be one of “managed decline” for the BC. In contrast, the spatial vision that the JCS seeks to deliver by 2026 takes a more positive and proactive approach through an economic, social and environmental regeneration of the area. Acknowledging the major challenges faced, which have increased due to the recent economic recession, the JCS seeks to tackle out-migration to surrounding counties through growth in sustainable locations to help attract private investment and enterprise to improve the local economy. This will include achieving a new balance of housing and employment growth utilising mainly previously developed land (PDL), as part of a major programme of land use change on around 1,000 ha of existing employment sites, and the current transport network.

3. The JCS also benefits from an extensive and robust evidence base that has been developed over a number of years and with considerable input independent of the four Councils acting together. Moreover, it is clear to us that there is not only widespread public support across the area for the strategy, but also strong evidence of co-operation across authority boundaries, including those under differing local political control. All of the above factors, reinforced by the effective absence of strategic level representations from the

development industry, service providers and/or national bodies to the contrary, lead us to conclude that the spatial vision put forward for the BC is appropriate in principle.

4. Taking into account the importance of the regeneration of the BC for the future of the wider WM region, as recognised in the former RSS (CD 183), we are also satisfied that the JCS is, in general, consistent with national policy in PPS12. Having been prepared jointly by the four Councils concurrently with their emerging Sustainable Community Strategies (SCSs) in most respects, the JCS objectives are closely aligned, as set out in Appendix 1, and thus in accord with para 1.6 of PPS12.

5. The spatial vision is also locally distinctive in that a growth network of four SCs and 16 RCs based on strategic transport routes, which also contain concentrations of development opportunities and areas in the greatest need of regeneration, is clearly defined. The commitments that 100% of new comparison retail floorspace, 95% of new (Use Class B1a) offices, 93% of new employment land and 64% of new housing will take place within this growth network reinforce this judgement. Together with the objective that 95% of new housing will be on previously developed land (PDL) and that, accordingly, there is no need for land in the Green Belt (GB) to be released for new development, these factors enable us to conclude that the spatial vision for the future of the BC to 2026 provides adequate local distinctiveness, as well as being appropriate overall.

6. In the light of all of the above, we are further satisfied that the recent revocation of the RSS by the Secretary of State does not materially alter the soundness of the spatial vision. Nor does it directly affect the suitability of the strategic objectives of the JCS for their intended role in the overall regeneration of the area. Apart from the necessary minor textual amendments, we see no need for further changes in this respect.

*ii) Will the strategy satisfactorily and sustainably deliver the new development needed to meet the sub region’s growth, including through the allocation of a number of regeneration corridors or, if not, why not and what needs to be changed?*

7. Whilst both the spatial vision and overall objectives of the JCS are suitable and appropriate in relation to the sustained regeneration of the area, ultimately their effectiveness depends on whether or not they can be delivered in practice. In this respect, we have noted the strong focus on deliverability in the supporting evidence base, notably in the Delivery and Implementation Plan (DIP) (CD 161) and the Infrastructure and Delivery Study (IDS) (CD 166) that are both detailed and comprehensive. We further



acknowledge the resources invested by the Councils in ensuring that the relevant delivery partners, including statutory undertakers and service providers, have been fully engaged from an early stage. All now confirm endorsement of the JCS, in principle at least. We have also been impressed by the clearly demonstrated abilities of the Councils to work together constructively in identifying and agreeing new infrastructure priorities and in harnessing the relevant support, where necessary, for the implementation thereof over time.

8. Clearly, recent economic conditions and the early actions of the new government have had a significant impact on public spending programmes, not least with regard to new transport infrastructure and, in particular, on short to medium term investment. Nevertheless, the JCS is a long term plan, with an end date of 2026, and further turns of the economic cycle may reasonably be expected during this period. Accordingly, we take the view that, providing the JCS (and its daughter documents) have sufficient flexibility regarding the prospective timing of the necessary investment in infrastructure and any directly associated new development, it need not be rendered unsound by the likely requirement to revise the DIP (CD 161) following the Autumn 2010 comprehensive spending review (CSR). In such circumstances, we consider there are reasonable prospects of delivering the necessary majority, if not all, of the new infrastructure identified, including public and other transport improvements, before 2026.

9. The importance of continuous and consistent monitoring of progress in terms of new infrastructure provision and funding, and of ongoing liaison with service providers, cannot be overstated in this context. Notwithstanding, we have been encouraged by the up-to-date evidence, including from discussions at the examination, of continuing private sector involvement in regeneration projects locally, despite recent economic circumstances. Moreover, we acknowledge the benefits for private investment of the increased certainty that is provided by the JCS in terms of the focus on the regeneration of the SCs and RCs, many of which are close together and with good links between.

10. Therefore, we are able to conclude that, despite inevitable short term difficulties regarding public sector funding, the overall strategy, with its important focus on SCs and RCs where redevelopment would largely use existing infrastructure, is capable of delivering the new development needed to meet the housing, employment and other targets identified by 2026 in a satisfactory and sustainable way.

*iii) Are there any objectives, policies or proposals not consistent with national guidance and, if so, is there a local justification supported by a robust and credible evidence base?*

11. The Councils’ assessment that the JCS is consistent with national guidance in all material respects is essentially endorsed by all other relevant public sector bodies. We agree that none of the questions arising on the detailed wording of certain policies goes to the overall soundness of the strategy as a whole in terms of compliance with national guidance, including PPS12. Accordingly, such matters are dealt with in the later sections of this report.

12. However, the RSS revocation has led the Councils to reconsider the need for certain strategic level policies to replace those that would otherwise have been relied upon as part of the adopted development plan for the BC. Consequently, some of the FPCs discussed at the examination concern these policies and we have also taken into account the further written comments invited from respondents as a result. For example, FPCs have been proposed to Policy CSP2 in respect of the countryside. We endorse these as both generally consistent with national guidance in PPS 7 and derived directly from the equivalent in the former RSS.

13. Similarly, amendments proposed in relation to flood risk mitigation, including to Spatial Objective 3, are considered to be in accord with PPS 25 and therefore acceptable in the JCS in the absence of a similar policy from the RSS. Other FPCs arising from the RSS revocation are referred to in relevant later sections, including in respect of the definition of “readily available land” and general policy support for the expansion of further education locally.

*iv) Is there a clear “audit trail” demonstrating how and why the preferred strategy was selected, including in terms of consultation with the public, representative bodies, service and infrastructure providers and other interested parties?*

14. The Consultation Statement (CD F8) accords with the legal requirements for a DPD and provides a suitable record of public and other consultations during the various stages of the JCS preparation process since 2006. From the evidence and the representations we are able to conclude that the joint working arrangements have proved satisfactory in this respect. This includes in terms of the close contact maintained with key delivery partners.

15. Regarding the preferred strategy, we acknowledge that in a very largely built up area such as the BC the realistic alternatives for accommodating the growth aspirations are necessarily limited. Nevertheless, the two options consulted upon at the Issues and

Options stage, whilst not necessarily mutually exclusive as the selected strategy demonstrates, did at least provide a clear choice for comment and assessment of the implications in sustainability terms. Thus, we are satisfied that they were locally appropriate.

16. Deriving as it does directly from the Black Country Study (BCS) (2006), that itself arose from the original RSS (adopted 2004), it is clear that the preferred strategy has emerged from a process of gradual refinement influenced by consultation responses (and sustainability appraisal) at various stages. The submitted strategy therefore benefits from considerable public support. It also has positive endorsement from most, if not all, organisations responsible for service delivery in the BC. Moreover, there is a noticeable absence of significant strategic objections from the development industry as a whole, as distinct from specific detailed criticisms of certain aspects and policies. Taken together, these all point to a sound overall strategy that has emerged from a comprehensive consultation process and we conclude accordingly.

## **Matter 2 – Sustainability - Issues:**

*i) Has the JCS been the subject of suitably comprehensive and satisfactory sustainability appraisal [SA], strategic environmental assessment [SEA] and an appropriate assessment [AA] and if not, what else needs to be done?*

17. The SA/SEA of the JCS has been properly undertaken as an iterative process, influencing each stage of plan preparation, including the final submitted version, in order to improve the overall sustainability performance. The use of independent consultants, who took an active part in the development of the strategy, reinforces our conclusion drawn from the evidence base that the SA/SEA process was comprehensive and carried out in sufficient depth throughout to have appropriately influenced the submitted JCS. We are also satisfied that there was no need for it to pay particular or additional attention to any specific implications for the BC of any further employment development across the border in South Staffordshire, when such proposals are largely a matter for that Council’s CS which is at an earlier stage.

18. Regarding AA, the Habitat Regulations Assessment (HRA) began in 2007 and was first “refreshed” in 2008 enabling the two local SACs and five others within 20km of the BC to be “screened out”, with the Cannock Chase SAC the exception. Following representations from the Staffordshire local authorities about the possible implications for Cannock Chase of new development in the BC, a further “refresh” was undertaken by independent consultants post submission. This adopted current best practice on HRA

production and required the preparation of AAs for Cannock Chase, the Humber Estuary and the Severn Estuary SACs that recommend various detailed measures to overcome any potential negative effects. As a result, the agreed FPCs now commit the Councils to working with Natural England and the Staffordshire local authorities to deliver a package of new initiatives proportionate to the HRA requirements and the relationships of the SACs to the BC.

19. In the light of the above, which we generally endorse, we are now content that the JCS, as amended, provides adequate information in respect of possible indirect effects on Cannock Chase (and the Estuary SACs) arising from new development in the BC to guide the production of subsequent DPDs and their detailed implementation in this respect. Accordingly, we conclude that, overall, the JCS has been the subject of suitably comprehensive and satisfactory SA, SEA and AA, albeit some further work remains to be carried out as part of plan preparation for the “next stage” DPDs.

### **Matter 3 – Economy/ Employment - Issues:**

*i) Are the policies and proposals concerning the local economy and employment consistent with national guidance, including PPS 4?*

20. The three GVA Grimley employment reports (CD 26 – 2005, CD 27 – 2008 & CD 28 – 2009) have each in turn provided the main input to the three main stages of the JCS preparation and together constitute a robust evidence base for the economic vision and objectives therein. This includes in respect of local employment land needs on a “total stock” approach across the area, taking into account estimated housing and population growth over the plan period, as well as the likely effects of the recent economic recession. We fully acknowledge the significant challenges involved in restructuring the quality of much of the employment land across the area, principally focused on the RCs. Nevertheless, we agree with the Councils on the scale of sites needing to be redeveloped, principally for new housing (around 1,000 ha), if the overall strategy for the BC is to be fully implemented.

21. On this basis we are content that the requirements of Policies EC1 and EC2 of PPS 4 have been met and that, overall, the JCS policies and proposals are consistent with national guidance in this respect. For the record, we also note that the economic objectives and employment policies demonstrate a clear line of direct derivation from those of the former (and formerly emerging) RSS relating to the regeneration of the BC and its importance to the regional economy. Our conclusion in this regard is bolstered by the support, in principle, expressed by nearly all respondents, both

public and private, for this key element of the JCS as entirely appropriate, albeit very challenging to deliver, for the future of the BC’s local economy and that of the WM as a whole.

*ii) Will they deliver the levels of new employment sought or, if not, what else needs to be done and/or should more [or less] land be identified, for example by allocating new greenfield sites or removing areas from the GB?*

22. The assessment of employment land requirements and supply has been undertaken on a comprehensive basis in the three GVA Grimley reports. The necessary assumptions made therein, on factors such as employment densities and plot ratios, appear reasonable and locally applicable to the BC. Therefore, we accept that the level of new employment sought in the JCS is derived from a suitable and satisfactory evidence base, particularly now that the RELS dataset for Walsall has been updated in the PCs in the light of a recent (May 2010) planning appeal decision at Brownhills.

23. However, the Policy EMP4 target of 185 ha of “readily available” land (RAL) across the BC cannot be met at present if based on the definition in Policy PA6 of the formerly emerging RSS. We return to the definition criteria later in this section under issue iv) below. Irrespective of the definition used there remains a clear short term need to bring forward more new employment land into the area’s five year rolling supply. In present circumstances, the Councils accept and we agree that the economic viability of doing so is likely to prove beyond the resources of the private sector in many instances, particularly where land contamination/remediation is also involved with redevelopment of existing employment sites.

24. Consequently, we fully endorse the essential impetus that must be provided by the redevelopment of public sector assets and intervention/assistance for private sector investors, at least in the short to medium term, if sufficient RAL sites are to be brought forward and the necessary delivery of new employment consistent with the strategy achieved over the plan period.

25. Nevertheless, we do not accept that there is any overriding need for the release of GB or further greenfield land for new employment development in the BC. Instead, we agree with the Councils that it would represent merely a potential “stop gap” solution, with important disadvantages. In particular, it would act to undermine the overall strategy of regeneration of the major urban areas by diverting resources and attention away from the redevelopment of PDL in more sustainable locations. It would also create an element of uncertainty over the area’s real investment priorities that are essential to the success of the strategy. Most

importantly, it would represent a far less sustainable option for the delivery of new employment land over the plan period compared to the re-use of existing sites and buildings.

26. It is common ground that there are presently no suitable locations in the BC to meet the potential need for any additional “Tier 1” (CDs 181, 182, 183) major employment sites to help serve the local economy identified in the former (and formerly emerging) RSS. Therefore, this is now a matter for South Staffordshire in their CS and subsequent DPDs, in consultation with other interested parties, including the BC Councils. As we understand it, a joint study is underway and will form an important input to that CS process. In such circumstances, we see no need for any further changes or additions to the JCS, beyond those in the PCs and FPCs.

*iii) Is it appropriate in principle and reasonable in practice to seek to safeguard so many employment areas and/or should more flexible criteria [such as in relation to economic viability] be used to help make the most effective use of previously developed land (PDL)?*

27. The principle of safeguarding employment land to meet local needs and support economic growth and diversification is entirely consistent with part h) of Policy EC2 in PPS 4. It is also clearly necessary to help deliver the overall strategy for the BC, including Objectives 2 and 9. We also note that the overall approach of the JCS already contains some flexibility between differing types of employment and non B class uses on sites to be safeguarded.

28. Moreover, the selection process itself is based on an assessment of each locality. It takes into account not only the existing quality but also general accessibility to the main transport network and thus potential to meet future business needs. To an extent, therefore, each of these factors forms an element of the likely economic viability assessment of each site for re-use/redevelopment and thus it has not been omitted from consideration, as suggested by some.

29. The proposition that, in local quality employment areas at least and especially alongside canal frontages, new residential development should be encouraged as part of a mix of uses within redevelopment schemes has some superficial advantages. As several local examples demonstrate, it is often possible to create an attractive waterside setting for new housing and improve the local environment more generally in this way.

30. Nevertheless, we also recognise the overriding importance for the strategy of retaining sufficient suitable employment land and

buildings for smaller businesses, as well as larger ones on more prestigious sites, across the BC. The introduction of pockets or fringes of new housing into such areas may well affect their overall future viability and critical mass so that employment uses are gradually replaced over time.

31. In addition, the juxtaposition/proximity of uses may give rise to potential conflicts of interest in relation to noise, traffic generation, hours of working and other related factors. Consequently, we are not persuaded of the need to change the JCS to introduce even greater flexibility and normally allow residential redevelopment in safeguarded local quality employment locations.

*iv) Are the definitions of a High Quality Strategic Employment Area (Policy EMP2) and “readily available land” (Policy EMP4) appropriate and realistic in all the relevant local circumstances?*

32. There is no dispute that the concept of defining areas of existing employment land, where there is a strategic justification for its retention in that use, as “high quality” is desirable in principle. It should assist in attracting and directing new inward investment to the most suitable and sustainable locations across the BC. We also accept that, whilst highly ambitious, the programme for “upgrading” the selected areas has been based on a robust and credible analysis of their potential, including via the three GVA Grimley reports.

33. Nevertheless, there should be a consistent use of terms in the JCS, if only for the understanding of readers. Thus, all references to “High Quality Employment Land” or “Areas” or all other variations thereof should be amended to “High Quality Strategic Employment Areas” throughout.

34. Turning to Policy EMP4 and the definition of RAL, the Councils now accept the need for a change to reflect the practical difficulties of compliance with the wording in Policy PA6 of the former RSS. This would reflect the evidence of the R.Tym & Partners report (April 2010) (App C of CD J18).

35. The Councils are confident that their suggested amendment to the fourth criterion in para 4.18 would be workable in all relevant circumstances, whilst overcoming the difficulties associated with implementation of the previous version. Although a simpler wording could be equally effective, we see no reason to contest the suggested FPC to this criterion, given the clear consensus that it needs to be amended, and endorse it accordingly.

v) *How will future employment land be brought forward into the portfolio of sites if and when required?*

36. No-one doubts the appropriateness of the “minimum reservoir” approach to employment land availability in principle, and the overall level indicated for the BC has been directly derived from the evidence set out in the GVA Grimley reports. The JCS does not include specific land use allocations and it imposes no particular phasing constraints. Taking into account that nearly all the sites will be on PDL, we are equally satisfied that it should be sufficient to include new ones when either allocated or granted permission for employment redevelopment, provided there are no major constraints. As each Council will also be preparing subsequent land allocation type DPDs to define allocations and their boundaries, we see no need for the JCS to have a particular policy or proposal detailing exactly how new sites would enter the local RAL portfolio.

37. For our part we consider it sufficient for the individual and joint Annual Monitoring Reports (AMR) to identify any emerging material shortfall in employment land availability across the BC and for the Councils and other parties to act on such results accordingly, including through the DIP (CD 161). In the event of a significant failure to deliver the matter would have to be more urgently addressed, potentially via a full Review of the JCS as a last resort.

vi) *Are the targets for office accommodation within the four SCs realistically deliverable and, if not, does the JCS provide sufficient flexibility to consider other uses that might be appropriate? Is it appropriate to state in the JCS that offices should not be classed as an employment use?*

38. The equal level of new (i.e. additional) office floorspace sought in each of the four SCs has emerged from the original BC Study (2006) and has been subsequently endorsed throughout the former RSS process, including in the EIP Panel Report (CD 183). We note the track record of delivery of new development projects across the BC over the last five years or so, including current commitments such as the Interchange at Wolverhampton. Nevertheless, given the present economic climate, the Councils acknowledge that most of this additional office space will not come forward before 2016.

39. This should at least give time for subsequent DPDs, especially AAPs for the SCs, to identify, allocate and help bring forward the necessary sites and opportunities in the most appropriate locations for new office developments. Clearly, the potentially competing requirements for retail and leisure uses in the SCs will also have to be taken into account, with new office uses likely to be encouraged,



in principle, in edge of centre locations as well, as recognised in Policy CEN3.

40. In such circumstances we do not doubt the physical capacity of the various centres to accommodate the high target levels of new office floorspace. However, achieving delivery seems likely to prove very ambitious in the face of competition from other centres, such as Birmingham and the need to attract major employers (private and public) when many are “downsizing” their UK office operations, including through international relocations, encouraging home working and other measures.

41. Nevertheless, we are satisfied that subsequent DPDs, including town centre AAPs, will retain sufficient flexibility in implementing the policies and proposals of the JCS to be adapted for the possibility of new office floorspace not being required or delivered on the scale now envisaged. This would include through site allocations for mixed/joint/alternative uses in suitable locations in or on the edge of town centres. Potentially, it might also involve the adoption of a separate “minimum reservoir” approach for new offices in each SC, to avoid land being “sterilised” and remaining undeveloped for long periods where demand is low.

42. In the specific BC context, as referred to in §4.2 of the JCS, Policies EMP1-4 inclusive focus on those employment uses usually found in employment areas, as distinct from larger office operations that are most suited to town centre locations, in the light of national guidance in para 7 of PPS 4. Ancillary offices with manufacturing uses, for example, are included in this definition of “employment”.

43. Given the strategic imperative of restructuring the local economy in order to achieve widespread regeneration, including importantly in the four SCs themselves, we therefore accept the local justification for seeking to concentrate significant new office floorspace in the most sustainable locations, through these policies, in principle. Specific considerations in each SC are dealt with later.

*vii) Does the JCS give appropriate consideration to the role of the University of Wolverhampton and other tertiary level education providers in supporting Spatial Objective 2 (a restructured sub-regional economy) and other JCS initiatives around the economy, employment and centres?*

44. Further recognition of the important role played by tertiary level education in supporting the economic (and social) objectives of the JCS has now been included in the FPCs put forward by the Councils. We endorse these changes as useful clarification of the overall support for the improvement/expansion of such facilities in

appropriate locations, in principle. Nevertheless, even in the absence of any RSS policy specifically relating to the higher and further education sector, we see no particular need for a separate additional policy to be introduced into the JCS.

45. In a CS, it could only be general in nature, rather than relating to individual institutions or locations. Nor could it reasonably provide any meaningful specific guidance on the siting, scale, form or nature of schemes as a strategic level policy, particularly in the absence of any actual major proposals. Consequently, we are content that, as amended via the FPCs, the JCS gives appropriate consideration to the important role of further education and that nothing further is required to make it sound.

#### **Matter 4 – Housing (General) - Issues:**

*i) Is the overall number and phasing of new housing realistically deliverable within the plan period, taking into account the evidence in the SHLAA and the opportunities identified within the sub region, including the SCs and regeneration corridors?*

46. The overall total of 63,000 net new dwellings for the BC, with 95% on PDL, will increase the area’s housing stock by about 13%, compatible with expected population growth of around 7%. Whilst entirely consistent with the formerly emerging RSS Phase 2 (CD 182), as endorsed in the Panel Report (CD 183), this figure has emerged democratically as the joint aspiration of the BC Councils, rather than being imposed as a regional requirement to be met.

47. Although 34% of the new housing allocation is in Sandwell, we note the concentrations of potential surplus employment land in that area and that, recently, it has been providing around 36% of new housing completions in the BC (CD J12). Accordingly, we are satisfied that, not only is the split between Councils realistic and reasonable, but also that the total number of new dwellings sought is robust and credible, according to the evidence available, including the capacity of suitable sites as identified in the four SHLAAs.

48. In particular, we are reassured about the likely potential delivery of new housing by the identified current surplus of about 8% of new housing capacity available against the JCS target, having already allowed for a 15% discount on surplus employment land and a 10% discount on other commitments to take into account delivery constraints, such as ground contamination. Both adjustments seem reasonable and appropriate in general terms for a strategic level assessment, particularly as there is no specific

evidence available to justify any preferable alternatives. We therefore conclude that this aspect of the JCS is sound.

49. In relation to phasing, the Councils FPCs now confirm that Table 6 of the JCS is intended to be indicative only and that individual housing trajectories will be included in Appendix 4 for each of the four Councils to assist monitoring of new housing delivery over time. This is all in the context of 58% of new housing provision being expected in the second half of the plan period, due to recent housing market conditions. We endorse these changes and consider that they address the concerns expressed by respondents about the possible practical implications of the figures set out in Table 6.

50. The former helps to make clear that the BC Councils have no intention of holding back the redevelopment of allocated/suitable sites if development could reasonably start earlier than currently anticipated in the relevant SHLAA. The latter should make it easier for the respective Councils to take action in the event that one or more districts is not able to deliver the level of new housing sought, even if the overall BC requirements are being met in total, to assist implementation of the strategy as intended and in advance of any Review of the JCS, if required. It is also necessary to recommend (no. 1) that the various housing figures for the SCs be amended slightly for consistency with Table 2 and Appendices 2 and 3.

*ii) Has it been demonstrated that there will be a five year supply of developable new housing land, a six to ten year supply on specific sites and an 11 – 15 year supply in broad locations, in accordance with PPS3?*

51. The preparation process for each of the SHLAAs is generally acknowledged to be consistent with PPS 3 and each provides a buffer of housing land supply against the relevant JCS targets on a phased basis. The strategic exclusion of GB sites and areas to be retained for employment was approved by stakeholder panels, including development industry representatives. Moreover, overall density assumptions have been reduced since the Preferred Options stage, including to 35 dwellings per hectare (dph), from 41 dph net, on most surplus employment land and this is demonstrably moderate when judged against recently completed schemes. This adds a further degree of flexibility to new housing land supply as some redevelopment sites, e.g. with good public transport services nearby, will continue to give opportunities for higher than average densities without compromising on design quality.

52. The recent changes to PPS 3, made after the submission of the JCS, to remove the expectation of a minimum density of 30 dph on

new housing sites and alter the definition of residential gardens from PDL to greenfield, seem unlikely to have any significant effects on the overall delivery of new housing in the BC to 2026. This is firstly because redevelopment densities on PDL sites within built up areas tend to be higher in any event, so as to achieve economies of scale and take advantage of sustainable locations. It is also because in recent years only a small percentage (e.g. around 2% in Wolverhampton 2003-8) of additional housing in the BC arises from new dwellings within domestic curtilages. New units on other greenfield sites (e.g. public open space) typically contribute less than 1% as well (BCLA AMRs – CDs 162 to 165).

53. As the majority of new housing will be provided on land that is already committed or to be allocated within RCs, SCs and other suitable employment areas elsewhere, our conclusions that the identified levels of land supply for each five year period are appropriate, are reinforced by the results of the Councils’ viability study (CD 167). This confirms that delivery is generally achievable on such sites without the need for public subsidy, providing that there is sufficient flexibility in affordable housing requirements in accord with Policy HOU3. As we saw on our visits, some new housing projects have continued during the recent recession and prospects can only be enhanced when market conditions improve as may reasonably be assumed over the full plan period.

54. In the context of an approximate 8% surplus of new housing capacity identified in the four SHLAAs compared to the JCS overall new housing target to 2026, we are comfortable with the Councils’ assessment of less than 6%, or about 418 dwellings per year, being provided on small “windfall” sites across the BC. This compares to a recent yearly average of around 640 new dwellings and thus still provides a generous discount against the trend, even taking into account a 2% reduction arising from the changed definition for residential gardens in PPS 3. In a largely built up area, such as the BC, we accept that such an allowance is appropriate and locally justified in relation to guidance in PPS 3, notably para 59. We therefore conclude on this issue that the necessary supply of developable new housing land has been demonstrated by the evidence for each of the relevant five year periods in accord with PPS 3, without any reliance on “windfalls”.

*iii) Is it clear that all suitable previously developable land [PDL] sites have been included and, if not, why not?*

55. From the submitted evidence we are satisfied that each of the four SHLAAs has been prepared on a comprehensive basis and that there have been no significant omissions in the examination of potential new housing sites, including those put forward by

landowners and developers. We are also content that the exclusion of sites in the GB and areas to be retained for employment use has been appropriate in all the relevant local circumstances, including the overall level of current housing land supply.

56. We further agree with the Councils that the identification of numerous, small, potential redevelopment opportunities outside the main “growth network” (SCs and RCs) helps to provide a variety of size and type of sites across the BC. It also improves delivery prospects as about a third of overall new housing is expected in such locations.

*iv) Will the intended management of new housing delivery prove adequate to ensure that the strategic aims of the JCS are met. If not, what else needs to be done and why?*

57. Successful implementation of the strategy depends on the phased release of surplus employment land for new housing across the BC, but especially in the defined RCs. Table 4, as now amended, therefore gives detailed phasing guidance to the constituent Councils for their subsequent AAPs and SADs, alongside Policy DEL2. Given that present commitments and sites identified in the various SHLAAs can provide the required new housing in the early years of the plan period, it is appropriate that occupied employment areas with constraints that may take time to overcome are not generally expected to provide new housing before 2016.

58. Nevertheless, in the light of the Councils’ clarification that the figures in Table 6 are indicative, there is no reason in principle why any such site could not come forward earlier, if circumstances permit, with any local implications taken into account through the detailed monitoring of new housing delivery over time. Subject to compliance with the last part of Policy DEL2, this may also be possible in advance of local AAP/SAD adoption. This provides some additional flexibility in terms of alternatives and contingencies, if required, and subject to the overall general balance of new housing and retained employment land being maintained.

59. It is common ground that the BC needs to attract and retain higher numbers of AB social group households to the area to assist economic regeneration. Clearly, this implies that, where possible, some of the new housing at least should be attractive to such occupiers and we saw recent examples of local provision, e.g. on canalside sites, during our visits. What it clearly does not imply, in our view, is that such “aspirational” new housing can only be provided in the form of low density, low rise schemes on greenfield sites peripheral to the existing built up areas. We agree with the Councils that this would be likely to harm the prospects of urban

regeneration across the BC by diverting resources away from the redevelopment of available PDL and is simply not necessary to meet the full range of new housing needs, including for AB social groups.

*v) Should the JCS contain a housing trajectory and/or contingencies in the event that completions do not come forward as expected?*

60. There is no definitive requirement to include a housing trajectory in the JCS. But, we agree with the Councils and others that it is very useful to give the currently anticipated position in relation to new housing delivery, even though it will soon require updating in detailed terms following each AMR. Hence, inclusion in Appendix 4 to the JCS is appropriate.

61. In respect of contingencies, we are reassured by the identified small oversupply of available sites that circumstances are unlikely to arise that would justify the need for significant additional sites, not already identified in the various SHLAAs, to be brought forward for development in advance of the Councils’ stated intention to conduct a full Review of the JCS starting in 2016. In such circumstances, we are satisfied that there is no need for a review of GB boundaries or the release of presently unallocated greenfield sites in the BC before that date at the earliest.

**Matter 5 – Housing (Policies) - Issues:**

*i) Is the threshold and percentage for affordable housing justified by up-to-date local evidence of housing needs and economic viability and does the policy provide sufficient flexibility if viability is an issue for a particular scheme?*

62. The 15 dwelling threshold for seeking affordable housing is not only consistent with the relevant national indicator in PPS 3 but also already in use across the BC through adopted policies in development plans. All the available evidence points to the fact that it remains locally appropriate and, therefore, in the absence of anything to the contrary, should remain unchanged in the JCS.

63. The target percentage of 25% is also consistent with existing adopted policies in the BC, with the exception of Dudley where the current expectation is 30%. It also reflects the sub regional minimum recommended in the recent Panel Report on the former Phase 2 RSS (CD 183 p111). The up to date evidence in the SHMA (CD 21) and the various HNSs (CD 5 to CD 8) provides a clear and robust justification of the significant level of local needs for affordable housing in the BC.

64. We further note that the overall target of 11,000 new affordable houses by 2026 represents a material increase (647 per year compared to 516 recently) in provision from all sources. This reflects not only a higher level of overall completions but also that such requirements for private developers, relatively recently imposed in some areas, are only just now beginning to feed through into actual dwellings built across the BC. We therefore agree with the general consensus that the issue is not the scale of need, as such, but the viability of provision as referenced in PPS 3.

65. The viability study (CD 167) shows, to our satisfaction, that under more normal housing market conditions than prevailing over the last two years or so, 25% would be generally achievable by private developers. This includes on former employment sites with constraints such as ground conditions, as further evidenced by continuing delivery in some locations, despite the effects of the recent recession. It must be recognised that the detailed financial viability of prospective affordable housing for individual projects will inevitably be affected by numerous site specific factors, including the level of grant aid available to developers, if any.

66. It is therefore entirely appropriate that the target requirement is subject to financial viability testing, as made clear in the second and third parts of Policy HOU3, which we endorse. Nevertheless, subject to this proviso, the overall level of need and the other available evidence, including relating to recent delivery, confirm that the target percentage is sound and not unreasonable or unrealistic for the BC over the plan period and remains consistent with national guidance in PPS 3.

67. In relation to further details of the type and tenure of affordable housing to be sought, we agree with the Councils that this is best addressed at the more local scale through “next stage” DPDs, when area variations, including the nature of the existing stock can be more closely taken into account. Bearing this in mind and that the plan period covers further likely turns of the economic cycle, we endorse the FPC to delete the last sentence of para 3.15 (and include the first sentence at the end of para 3.14).

68. Whilst welcoming the flexibility inherent in the potential use of “clawback” as a method of addressing possible short term difficulties in relation to the financial viability of affordable housing provision in certain circumstances, it is a relatively new term that requires proper definition for clarity of implementation. Thus, we endorse the inclusion of a definition in the Glossary as another FPC.

69. Albeit only to be pursued as a “last resort”, when all other options demonstrably cannot be achieved, PPS 3 does not exclude

off site financial contributions in lieu of new affordable units on site. Whilst this remains as national guidance there is no absolute need for a specific reference in Policy HOU3. Therefore, like the details of type and tenure, we conclude that this would also be better addressed in the “next stage” DPDs to follow the JCS, where any localised factors of influence can also be taken into account in policy terms. In summary, subject to the PCs and FPCs, we find Policy HOU3 and its explanation to be sound and justified by clear and robust evidence.

*ii) Are the policies consistent with national guidance in PPS 3 and appropriate to meet local needs and/or should there be references to minimum/maximum densities, including in particular areas, such as SCs, according to public transport accessibility levels?*

70. In the light of the recent change to PPS 3, to delete reference to a national indicative minimum density of 30 dph, it has been suggested that all references to density should be removed from the JCS. However, paras 45 and 46 of PPS 3, requiring land to be used efficiently, have not been deleted and we agree with the Councils that it remains appropriate, in principle, for the JCS to have a minimum density expectation if it can be locally justified. We also take into account the FPC to replace “must” with “will aim to” in the first line of the fourth part of Policy HOU2 and the qualification provided by the further reference to Policy ENV2.

71. Accordingly, we conclude that, in a largely urbanised area forming part of a major conurbation, it is reasonable and acceptable to have a target minimum density for new housing schemes, albeit exceptions can be made in appropriate locations under defined circumstances. This will assist in the delivery of the overall new housing target in sustainable locations and in the efficient reuse of PDL, as required under PPS 3.

72. On a related matter, there is no firm evidence to justify the claim that new housing suitable for AB social groups (CD 2) cannot be built at densities greater than 35 dph in the BC. The size/mix of new housing sought under Policy HOU2 derives directly from the household projections for the BC (CD 1) that predict around 60% will be composed of only 1 or 2 persons by 2026. As they are indicative not prescriptive and intended to apply only to each of the four Council areas in general, rather than necessarily to individual sites or even localities, we consider that they are sufficiently flexible to take into account short term fluctuations in housing market conditions.



73. In particular, whilst we note the present low level of demand for new build flats in central areas, such sustainable locations remain appropriate in principle for higher density new housing schemes, taking advantage of their good accessibility to local services and public transport options, when market circumstances change.

74. We endorse the inclusion of accessibility standards, as in Table 8 of the JCS, to provide further guidance on appropriate new housing densities. We also agree that, as the figures are intended to act as guidance and not as absolutes, they and parts 5 and 6 should be in the supporting text to Policy HOU2, as distinct from part of the policy itself. We recommend (no. 2) accordingly.

*iii) Does Policy HOU4 establish unreasonably stringent criteria? Specifically, should sites be required to meet the highest access standards as set out in Policy HOU2 and what are the potential implications for pitch delivery if land values are higher on such sites? How does the requirement for transit pitches to be located adjacent to the Principal and Trunk Road Network sit with Government guidance on site design (Designing Gypsy and Traveller Sites, Good Practice Guide, CLG (2008))?*

75. The PCs address in part concerns about the criteria for the location of gypsy and traveller sites by no longer requiring sites to have the “highest standards of access to residential services”. The FPC amendments also indicate with more certainty the circumstances under which the Councils would support permanent residential pitch and traveller showpeople plot proposals to meet unexpected demand, including after 2018.

76. The replacement of “reasonable” with “moderate standards of access” in the FPCs version is appropriate as it makes Policy HOU4 consistent with Policy HOU2 as it relates to the desirable locational attributes of other forms of housing.

77. The FPCs represent a rewriting of the locational attributes of gypsy and traveller transit pitches and now show a higher level of consistency with CLG guidance in “Designing Gypsy and Traveller Sites” (May 2008). The Councils’ revisions to the supporting text to Policy HOU4 (specifically paras 3.17 and 3.19) provide a reasoned justification for the policy without portraying gypsy and traveller communities in an unfavourable light. However, proposals need not always comply with all of the criteria in Policy HOU4 as this would be inconsistent with other criteria-based policies in the JCS (e.g. those for new waste management facilities in Policy WM4). We therefore recommend (no. 3) minor wording revisions.

*iv) The Gypsy and Traveller Accommodation Needs Assessment (GTANA) identifies a need for 103 pitches to the year 2018 whereas Policy HOU4 requires 98 pitches; the five missing pitches appear from the GTANA to relate to an unauthorised encampment which moves around the JCS area. Although the group have not identified an area in which their needs should be met, what is the justification for not including an equivalent pitch requirement to provide accommodation?*

78. There is an inaccuracy in the calculations used for the forecast of permanent pitches for the period 2013 to 2018. The GTANA does not assume five missing pitches. Rather, it assumes a compounded household formation rate of 3.9% a year (para 12.42 CD 3) but the calculation used in Table 12.4 of the GTANA is incorrect. The Councils clarified that a 3% household formation rate should be used in accord with *Gypsy and Traveller Accommodation Needs Assessment Guidance* (Oct 2007). On this basis, the Councils say there would be a need for 29 spaces between 2013 and 2018, i.e., a total of 96 pitches over the period 2008 to 2018 but accept it is not necessary to alter the published target of 98 pitches as a result.

79. However, we find the Councils’ view inconsistent with published advice that offers 3% as an illustrative family formation rate (para 96) only. It demonstrates how an assessment should be carried out and advises that the appropriate rate for individual assessments should be based on the details of the local survey that underpins a study. Nonetheless, the difference between the 3% family formation rate that the consultants carrying out the assessment rely upon and 3.9% is not substantial in itself, as it amounts to around seven pitches. We have seen no other evidence to suggest a formation rate markedly different to 3% should be used.

80. The Councils have acknowledged the indicative nature of this target by confirming in the FPCs an alteration to Table 9 to state that the various figures for permanent and transit pitches are indicative only. This revision reflects the speculative nature of the forecast for the period 2013 to 2018.

*v) Are the relevant monitoring indicators and targets for new housing delivery clear and appropriate for the task?*

81. We are satisfied the indicators and targets are suitable and appropriate to facilitate the monitoring of new housing delivery over the plan period and that nothing further is needed.

## **Matter 6 – Environment - Issues:**

*i) Does the JCS strike the right balance between protecting the Black Country’s nature conservation resource and facilitating other strategic development?*

82. It is appropriate that detailed land allocations and the management or enhancement of nearby existing ecological resources in Brierley Hill be reserved to the more detailed AAP, other DPDs and/or future planning applications. In this respect we do not consider that alterations to CSP1 are required to make the JCS sound. Moreover, Policy DEL1 makes clear that the circumstances and procedure for negotiating the delivery of infrastructure will be set out in DPDs where financial viability is an issue. By contrast, the Councils’ FPC serves only to reinforce the commitment to an improved environment within existing centres.

83. Both the Councils and others suggested post submission revisions to the third bullet point of Policy CSP3. We note that national planning objectives as set out in PPS 9 and PPG 17 include, among other things, promoting sustainable development, supporting an urban renaissance, and conserving, enhancing and restoring wildlife and geology. It does not necessarily follow that development proposals must improve both the quality and quantity of an area’s green infrastructure. This is pertinent as the Councils complete their Environmental Infrastructure Guidance. For this reason, we find the Councils’ suggestion that improvements be sought that are appropriate to the character and needs of an area acceptable and on this basis we find the FPCs version of this part of the JCS to be sound.

*ii) Does ENV4 make sufficient provision for the promotion and improvement of the network, use of canals for waste transfer, promotion of moorings?*

84. There is broad support for the JCS’s commitment to promote and enhance the canal network. It forms an intrinsic part of the BC’s industrial heritage and is now acquiring another important role as a setting for new, non-industrial, development and a recreational resource. Much of the network supports access on foot and by cycle and is an environmental asset/nature conservation corridor too.

85. A recent study (CD 55) shows the currently limited potential of the network for transporting industrial goods or waste and there are also environmental constraints in preparing the canals for increased freight transport. ENV4 does not specifically rule out this purpose but it would be unrealistic to expect any major expansion of this use of the network during the plan period, in our view. We do not find it

necessary for the JCS to make a specific reference to the Hatherton Canal, noting that it is largely outside of the BC area and also it has ecological significance as part of the Cannock Extension Canal SAC.

*iii) Are the targets for renewable energy set out in Policy ENV7 appropriate and reasonable in the light of national policy? Should the policy be specific on aspects of energy from waste?*

86. We note broad support for this policy. It is not necessary to refer to the Code for Sustainable Homes in ENV7 as this policy covers both residential and non-residential development and identifies a scale of project at which it would be appropriate to require development to offset energy demand. Moreover, Policy ENV3 acknowledges the importance of the Code in new housing.

87. Para 6.34 of the JCS in support of Policy ENV7 indicates that the canal could be used for heating and cooling buildings. The Environment Agency has asked for this to be amended as it may require an abstraction licence and consent to discharge. We do not consider it strictly necessary for the JCS to set out the consents that would be required or to indicate the conditionality upon which canal water may be used as this is more appropriately a matter to be researched for individual schemes.

*iv) Does Policy ENV8 unnecessarily restrict development across the Black Country? Does the JCS provide an adequate response to the need to protect air quality?*

88. All four Councils have Air Quality Management Areas. Within each there are hotspots of poor air quality. We are content with the approach taken on where to locate sensitive uses such as housing, schools, hospitals and care facilities along with the methodology for assessing proposals that do not meet air quality objectives.

89. The last paragraph of Policy ENV8 has been removed in the FPCs to avoid a proposal being approved that does not comply with air quality management objectives and it is not possible to carry out mitigating measures. We support this FPC as the submitted text is inconsistent with LOI ENV8. We are content that the supporting text in the FPCs version to Policy DEL1 (para 2.58) indicates that air quality measures may be sought as part of a planning obligation.

*v) Does the JCS take sufficient account of the area’s proximity to the Cannock Chase SAC?*

90. Policy ENV1 confirms the need to ensure that development does not harm the BC’s nature conservation sites of international, national and regional importance. Cannock Chase SAC is located

north of the BC and forms part of a larger country park within an AONB, with other rural uses including Forestry Commission land. Cannock Chase is clearly an attractive destination for visitors owing to its vegetation, vistas and large areas of open countryside. There is no equivalent space in the BC.

91. The Footprint Ecology studies (CD G5 and G6) indicate pressures associated with managing visitors to Cannock Chase. A survey in 2000 indicated that 30% of the estimated 1.5m annual visitors had travelled over 10 miles to get to Cannock Chase. CD G5 shows at p9 that most of Walsall, Wolverhampton and the northern edge of Sandwell are located within a twelve mile zone of influence around Cannock Chase SAC. This zone covers a number of the northern RCs as well as Wolverhampton SC where there are proposals to build substantial numbers of new homes. It is pertinent therefore to consider whether increased populations in the north of the BC will have a direct or indirect impact on the SAC.

92. The FPCs identify, through revisions to Policy ENV1, the need to protect nature conservation sites outside the BC area without specifically referring to Cannock Chase. This is an appropriate alteration not just for Cannock Chase SAC but also to other matters (e.g. possible minerals operations close to the Cannock Extension Canal SAC).

93. The FPCs to para 6.3 acknowledge the need to carry out further work on likely visitor patterns from additional residents in the BC to assess the potential impact on Cannock Chase. Joint working between adjacent authorities should also be seen in the context of efforts by the BC Councils to create and improve alternative publicly accessible open spaces for local residents (e.g. the conceptual Black Country Urban Park study - CD52), as well as other regional parks in the wider WM.

94. We pass no comment on the planning merits of a 12 mile zone of influence nor do we consider that the policy needs to be more precisely set out than it is at this stage. In coming to this view, we have taken account of Natural England’s evidence at the examination that geographically tighter zones of influence have been identified around other English SACs. We note further that the SAC only forms a part of the larger Cannock Chase area.

95. Having regard to the potential alternative types of open space for new residents of the north of the BC in particular, the local priority in Walsall is to improve the quality of its existing open spaces (CD 42) rather than create new parkland for new residents. By contrast, the Wolverhampton Open Space & Recreation Study (CD 43) acknowledges a deficiency of open space for the city’s

current population. Commitments to increase access to open space across 3 of the 4 BC authorities are also included in LOI ENV6a.

96. The FPCs are sound in principle but we are concerned at the implication that ongoing research will necessarily lead to developers in the BC contributing towards mitigating measures to offset any impact on the Cannock Chase SAC. For this reason, we recommend (no. 11) adding “Depending on the outcome of this research” after the sentence ending “ongoing research”. It may be appropriate that any direct or indirect impact arising from increased urban populations especially in the north of the BC be addressed in more localised DPDs or a CIL scheme and we also recommend (no. 8) that the last two sentences should be altered accordingly such that the word “should” is replaced with the word “may” and “will” with the word “may”.

### **Matter 7 – Transport - Issues:**

*i) Is the overall transport strategy consistent with PPG 13 and the LTP and, if not, what needs to be changed and why?*

97. Numerous respondents, including the Highways Agency (HA), Network Rail (NR), Advantage West Midlands (AWM) and Centro, the WM integrated transport authority, have all independently endorsed the JCS as generally consistent with PPG 13 and the LTP (CD 63). It has also been prepared in conjunction with the emerging LTP3 expected in March 2011.

98. Moreover, the overall SCs and RCs approach has been tested through the WM PRISM multi modal land use and transportation model. The location of new development where there is the greatest capacity in the existing transport network has shown that whilst road traffic will grow over the plan period the rate should be less under this option than all others tested, and is therefore more sustainable. We conclude that the overall transport strategy is consistent with national guidance, as well as suitable for the BC.

*ii) Are the policies suitable and appropriate to deliver the necessary improvements, including in terms of rail/bus services, park/ride and cycling/walking and, if not, what else needs to be done and why?*

99. A few respondents criticised specific aspects of the TRAN policies, e.g. regarding bus priorities/lanes and cycling/walking promotion. However, we are satisfied each is consistent with the relevant national guidance in principle and the existing and emerging LTPs, albeit further details need to be addressed in

subsequent DPDs regarding particular aspects of implementation if the Strategic Objectives, notably 7, are to be achieved.

100. Overall, we are content that the JCS transport policies and priorities give the necessary and appropriate prominence to public transport improvements, including “rapid transit” and “Smart Route” schemes, in meeting increased demand and influencing travel patterns across the BC. Similarly, no evidence has been presented that calls into question the list of key transport priorities set out in Policy TRAN1 or those for traffic management in Policy TRAN5, which we endorse. This includes in relation to air quality that is dealt with in more detail in Policies CSP5 and ENV8.

101. Regarding rail, the reinstatement of the Walsall to Stourbridge line for freight services is a national priority, fully supported by the industry to provide much needed additional capacity on the congested WM network. However, it is not currently practical or viable to also introduce passenger rail services on this line and therefore unrealistic for the JCS to include this long term aspiration in its transport proposals for the plan period, no matter how desirable. Similar considerations apply in respect of other prospective public transport improvement schemes as they should only be included in the JCS if there are reasonable prospects of their being delivered within the plan period.

102. In relation to bus services, the significant enhancements envisaged, some of which are already underway, are based on a comprehensive analysis of the likely future needs of the area, as summarised in paras 5.9 to 5.11 inclusive of the JCS. This rightly encompasses the particular and pressing need for improvements at Brierley Hill to rectify existing deficiencies and recognise its definition as a SC.

103. Concerning park and ride, we share the doubts of some about the likely realistic delivery timescale of the strategic site at Brinsford outside the BC in South Staffordshire. Nevertheless, we observe no flaws in the policy approach itself as defined in Policies TRAN1 and TRAN5 of the JCS in relation to local sites. We also acknowledge the potential smaller scale transport benefits that may arise from individual station travel plans but consider these to be a matter of local detail relevant to “next stage” DPDs, rather than a JCS issue.

104. In general, and subject to the FPCs, including those agreed at the examination relating to Travel Plans under Policy TRAN2, we endorse the proposed Transport monitoring indicators and targets.

*iii) Is there a robust and credible evidence base to demonstrate that the proposals can be delivered over the plan*

*period? This includes in terms of priorities, such as metro improvements and park and ride sites, for new infrastructure, and the availability of funding and phasing, as well as contingencies/alternatives if major items, including improvements to the main road network e.g. at the M5 and M6 junctions and schemes in adjoining areas, do not come forward as expected?*

105. The DIP (Feb 2010) (CD 161) sets out a clear programme of implementation for the JCS, including in respect of new transport infrastructure and improvements. However, the recent suspension of the regional funding allocation process and short term budget cuts for transport introduced by the new government mean that it is now liable to be rewritten once the outcome of the CSR is known. In such circumstances, the Councils have sought to address the present uncertainty regarding transport funding in a supporting paper (CD J5). This confirms that some projects, notably road junction schemes, are already underway or committed. Moreover, none of those awaiting funding approval are, in themselves, “showstoppers”, in the sense that redevelopment schemes would be precluded before their completion.

106. The Councils’ evidence base also confirms, and no one else disputes, that the implementation of the transport strategy does not rely on the resolution of complex engineering problems or significant land acquisition in any particular locations before it can be implemented. It also benefits from almost universal support amongst delivery partners and other interested bodies, as well as consistency with the existing and emerging LTPs. Given that likely delivery therefore depends largely on funding being available, it is also relevant to note that a number of the key transport projects, including “rapid transit” in the Walsall – Stourbridge corridor, can be delivered on a phased basis, as available resources permit over the whole of the plan period. This includes improvements to the relevant motorway junctions on the M5, M6 and M54, many of which already suffer from peak time congestion, as well as elements of the Quality Bus Network/Smart Routes initiatives. In such circumstances, we are satisfied that the key transport priorities have been suitably and appropriately defined as a vital component of the overall strategy.

107. In terms of delivery, matters are inevitably far less clear cut at present. We therefore recognise the concerns of some, including the HA, about the difficulties arising regarding the funding and, to a lesser degree, the phasing, of implementation. In the case of the Midland Metro it is acknowledged by all concerned that Line 2 could not reasonably be delivered until the second half of the plan period in any event. Whilst less than ideal, this is not expected to deter



redevelopment schemes in any SCs or RCs, nor the improvement of public transport links to Merry Hill/Brierley Hill, given the potential for interim enhanced bus services. We recommend retention of the public transport priority for Brierley Hill in policy TRAN1.

108. Other rail-based improvements will continue to rely on the level of investment available to NR, in the main, in co-operation with Centro and local Councils. A clearer picture should be available after the CSR to enable the new LTP3 to take it into account and the DIP to be reviewed accordingly. Nonetheless, we are content that the key public transport priorities have been identified. Particular schemes can be brought forward as available resources permit, given the relative absence of significant constraints other than funding. Our conclusion on this matter is reinforced by the inherent flexibility to implement most schemes in stages and over the full plan period, rather than as essential precursors to redevelopment. Such circumstances should permit the assembly of funds from various public and private sector sources, over time and where appropriate, to assist delivery and in stages if necessary.

109. On highways, we endorse the FPCs which add a reference to the M54 and the likely route of the M6/M54 Toll Road Link to the Transport KD and to express more positively the intention in para 5.23 to examine sites for rail related freight to try and reduce the number of HGVs on the BC road network. We also fully endorse the requirements for Transport Assessments set out in Policy TRAN2, including the FPCs to reflect the importance of the monitoring and enforcement of Travel Plans in the policy target.

110. The key transport priorities in Policy TRAN1 include improvements to junctions 1 & 2 of the M5 and junctions 9 & 10 of the M6. The Councils and HA have been jointly working towards a full understanding of the detailed capacity improvements likely to be required over the full plan period. We note that the current Automated Traffic Management project, incorporating Hard Shoulder Running, on the Birmingham motorway box should make a positive contribution to reducing peak time congestion through the BC. We also acknowledge that the implications for travel demand and traffic management of Policies TRAN2 and TRAN5 should have a further beneficial effect in relation to traffic flows across the BC over time, including at the motorway junctions.

111. Nevertheless, we agree with the HA that some mitigation measures, at least, are necessary at each junction during the lifetime of the JCS and that, as things stand, there is no secured funding in place to implement them when required. On the other hand, we also agree with the Councils that strategic motorway issues and improvements to the national network necessary to

resolve them are not just the responsibility of the local Councils in whose areas they arise. Increased motorway traffic and junction congestion arise from a variety of sources, including national economic factors and new developments in other areas, such as in Birmingham in this case.

112. Policy TRAN1 properly acknowledges that motorway junction improvements will be required at all four locations within the plan period and are among the key transport priorities for the BC. It is therefore sound as a JCS policy. Based on the evidence available to date provided by the HA (CD L7), it is equally clear that the likely costs of delivering all the necessary motorway junction improvement schemes is not excessive in relation to the estimated costs of other key transport priorities. Accordingly, we are confident that, based partly on the previous track record of co-operative working, partnership funding and delivery achievement evident in the BC, there are reasonable prospects that, taking into account the probable turns of the economic cycle, the necessary funds can be found, albeit on a phased basis, by 2026.

113. The fact that neither the full details of the required works, nor the sources of funding to deliver them, have yet been resolved in detail does not therefore render the policy, its proposals or priorities unsound in this particular instance. At this unusual point in time, with a complete absence of clarity over public funding availability, we find that the JCS still provides an appropriate framework for more detailed proposals to be taken forward as and when required. It also allows for suitable funding mechanisms to emerge, if and when needed, including a possible CIL scheme and/or developer contributions, as now referred to in para 5.17 that we endorse in this context, as well as other public sources if appropriate.

114. As far as it is able at present, and to a sufficient degree, we therefore conclude that the evidence supporting the JCS transport policies, proposals and priorities is robust and credible and shows realistic prospects of delivery over the plan period. Alternatives also appear to be available should particular elements ultimately prove to be impractical, for any reason, albeit the latter seems unlikely on present evidence.

*iv) Are the policies suitable and appropriate to encourage increased use of the inland waterways network for both freight and leisure and, if not, what needs to be changed?*

115. The use of the inland waterways network, for both freight and leisure, is specifically encouraged in Policy TRAN3. Policy TRAN4, as now amended, also refers directly to the use of the canals as walking and cycling routes. Nevertheless, as identified in the

Regional Freight Strategy study (CD 80), the potential for freight transfer from road to canal is inevitably limited by practical constraints, such as lock flights, and economic considerations.

116. Moreover, as Policy ENV4 confirms, it is also essential that the other important functions and facets of the waterway network, including its historic and nature conservation interest and amenity values are not materially compromised as a result. In the light of all of the above we are content that the JCS policies are appropriate regarding the future potential of the BC canals and strike a suitable balance between the various interests, including a possible small increase in use for freight transport.

### **Matter 8 – Minerals - Issues:**

*i) How does the JCS implement relevant national policies and meet the requirements for mineral and aggregates production including brick clay, sand and gravel?*

117. The spatial portrait of the BC acknowledges the importance of mineral resources within the area. The strategy for their future management is comprehensive and reflects national policy in MPS1. It is supported by research at the regional and local level and extensive mineral safeguarding areas (MSAs) have been identified in Appendix 7.

118. The Transport and Accessibility chapter emphasises support for more transportation of bulky goods by rail. Potential and current rail transfer sites are identified at Tansey Green and Bescot Sidings (Appendix 7, Site Refs MI4, MI7 and MI10). The Environmental Infrastructure chapter identifies the importance of the BC’s geodiversity and the need to protect its nature conservation resources. This is an important consideration when refining potential areas of search for minerals and aggregates extraction. The Waste chapter also appropriately encourages the use of recycled materials before extracting new ones.

119. Taking into account submissions from minerals operators, we accept there is merit in the FPCs removing the presumption against the extraction of fireclay in Policy MIN4. This alteration is consistent with Annex 2 of MPS1 and other evidence provided at the examination on the national economic value of fireclay.

120. The thresholds in Policy MIN1 for development proposals to be accompanied by supporting information to confirm that mineral resources will not be needlessly sterilised are challenged and a lower threshold that would cover many more types of non-householder development proposed. The 5 ha threshold for urban

areas in the JCS has been taken from saved Policy M1 of the Dudley UDP 2005 and CD 138 (p. 17) states that a threshold of between 5 ha and 10 ha had originally been considered within the urban area. Incidental coal licence agreements showing sites ranging from less than 1 ha to 28 ha have proved viable in the past.

121. It is national policy to encourage the prior extraction of minerals (para 13 of MPS1) on land in an MSA but only where it is practicable. At the same time, the need to protect minerals resources in a part of the country where the vast majority is in an MSA must be balanced with vital urban regeneration initiatives in a primarily built up area. A second balancing factor is the BC’s particular geographic and economic context where financial viability is clearly a challenge in realising certain development projects. Thirdly, we acknowledge that minerals can only be extracted where they exist but it should not be presumed that resources defined in an MSA will necessarily be exploited.

122. The Councils have gone to some length to justify the thresholds they have adopted in Policy MIN1. This includes a literature review and anecdotal comments from minerals operators (CD 138 pp 15 to 16). In sum, this evidence indicates that prior extraction within urban areas in the region is rare. It follows that prior extraction is unlikely to often be feasible in the urbanised parts of the BC too. On balance, we find the 5 ha threshold for the BC’s urban areas to be a pragmatic and sound figure, noting the very limited likelihood of sites below that threshold having potential for minerals extraction and which could practically be worked.

123. The FPCs propose two critical alterations to Policy MIN1. The first is that planning applications involving changes of use on all eligible sites not involving new buildings would not be subject to the need to provide further information. We welcome this clarification. The FPC also removes the reference to *major* development in the GB, as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2010, and to introduce a threshold of 0.5 ha for sites in the GB involving the construction of new buildings instead. We welcome this revision as it acknowledges that the development of very small sites for non-mineral purposes could theoretically sterilise mineral resources. We therefore accept a lower threshold of site area would be appropriate in the GB.

124. In accepting this, we recognise that minerals extraction within the GB is not necessarily inappropriate development. Furthermore, sites in a non urban setting are not likely to have the types of constraint that urban sites might, such as proximity to housing. A threshold of 0.5ha would therefore cover more sites relative to the

submitted version of the JCS. Accordingly, we find this lower threshold to be sound too.

*ii) Does the JCS address all relevant minerals including the legacy of coal mining?*

125. In addition to the foregoing analysis of the role of mining in the BC, Policy ENV2(h) includes a reference to coal mining traditions. RC15 specifically refers to a dormant permission. RC12 acknowledges the need to preserve the geological diversity of parts of the BC. Policy CSP4 is concerned with place making and as a design related policy we find it neither appropriate nor necessary to further amend it to refer to the legacy of coal mining.

*iii) Does it identify levels of provision and maintain appropriate landbanks over the plan period?*

126. Annex 1 to MPS1 advises that Mineral Planning Authorities should have a rolling landbank of at least seven years for aggregates extraction (no crushed rock extraction is proposed in the BC). The JCS does not include a specific landbank for aggregates extraction but we are satisfied that the Councils have identified potential long term landbanks through the areas of search shown on the Minerals KD.

127. The latest monitoring report (CD J11 – June 2010) indicates at Table M1Ba that the WM county area had a landbank of just over 10 years as of December 2008. The Council’s Matter 8 Statement (Appendix 1 Table A1.1) indicates that Solihull and Walsall combined would have to provide between 4.8 and 5.2 million tonnes of gravel and sand towards WM needs up to 2020 (CD 116). The areas of search identified in Walsall alone provide a total resource of just over 4 million tonnes (CD 138 Appendix 1 Table A1d). On this basis, we are satisfied that the JCS makes provision for an appropriate amount of the needs of the WM over the plan period.

*iv) How are sites for future mineral working identified? What are the basic criteria for making subsequent site allocations and considering planning applications?*

128. Paragraph 15 of MPS1 advises that MPAs should identify areas of search, having taken account of environmental considerations, to provide greater certainty regarding potential future sustainable mineral working. Two areas of search have been identified for sand and gravel working (in Walsall) and three for Etruria Marl (Dudley and Walsall). These are identified in the JCS and acknowledged approximately in the Minerals KD. Policies MIN3 to 5 also provide guidance on potential sites.

129. The examination considered the merits of identifying land at Yorks Bridge as an area of search for fireclay extraction. It has the physical potential and, whilst it straddles the administrative boundary with Cannock Chase District Council, approximately half of the potential site falls within the BC (Walsall). The FPCs now acknowledge that the Brownhills area has 1.63 million tonnes of fireclay resources. Whereas Policy MIN3 states that fireclay should be exploited where feasible, Policy MIN4 and its supporting text falls short of indicating this site as an area of search but, at the same time, does not rule out use for fireclay extraction either.

130. The Councils’ case rests on four points: first, it is unclear if the site will be developed during the plan period and Staffordshire County Council confirmed that relative to other sites there, no operator has come forward supporting this site in that county’s minerals development plan. Second, insufficient evidence is available as to whether extraction could proceed without adverse impact on a range of local environmental assets, including the Cannock Extension Canal SAC. Third, proximity to housing proposals in RC15 would count against this site being permitted for minerals extraction. Finally, as the Councils consider it unnecessary to plan for coal and fireclay (para 8.52 JCS), Yorks Bridge should not be an area of search. However, the site has been the subject of research in the past and existing supplies at nearby Birch Coppice are known to be running out. The PCs version of the JCS (para 8.51) acknowledges the recent interest in working the site.

131. Appendix 9 of the FPCs provides a definition of the term “area of search”. It is broadly consistent with that provided by the British Geological Survey (CD 115) in that it applies to land with a known resource but does not imply that planning permission would be granted for minerals extraction. Rather, as with all minerals operations, permission may be forthcoming provided a proposal is environmentally acceptable.

132. While we are unable – and do not - make presumptions on the future of land within Cannock Chase District Council, it is clear from this definition that Yorks Bridge is the type of location that should be considered as an area of search in relation to the part of the site within Walsall. The supporting text to Policies MIN3 and MIN4 refers to the fireclay resource in the Brownhills area and the potential environmental constraints, as well as some of the works that would be required, including the permanent revocation of the dormant permission at Brownhills Common.

133. We find the requirement that these environmental issues be addressed before the site can be identified as an area of search places an unreasonable burden on any prospective promoter of

minerals extraction to carry out a level of research similar to an environmental impact assessment before the site could even be considered for minerals extraction. A further factor in favour of designating the Walsall part of the site within an area of search is that the FPCs confirm that it is more desirable that land at Pelsall Road/ Apex Road/ Coppice Close in RC15, previously identified for up to 250 new homes, be used for employment.

134. Identification of this site as an area of search does not necessarily imply that planning permission for fireclay extraction will or should follow. Rather, it would have the advantage of giving important information to the public and others, including non-minerals developers, about the site’s possible long term use. Accordingly, we recommend (no. 10) that the part of Yorks Bridge within Walsall should be identified as an area of search for fireclay extraction and consequent changes (no. 9, 11, 12) to the wording of policies MIN3 and MIN4, the supporting text in 8.51 and 8.52 and the Minerals KD for soundness.

*v) What is the policy for dealing with restoration and after-care of mineral working sites and encouraging the use of recycled/secondary aggregates?*

135. Policies MIN2 to MIN4 set out area-specific requirements for minerals extraction, including after care, with more general guidance in Policy MIN5. None of the active quarries in the BC are currently producing aggregates as a by product (CD J11) but the JCS contains commitments to encourage the recycling of CD&EW. The FPCs to Policies WM1 and WM3 acknowledge the need to plan more actively for more facilities over the plan period. We find these alterations to be soundly based and consistent with sustainable development objectives.

### **Matter 9 – Waste - Issues:**

*i) Does the JCS provide a spatial portrait of the area in terms of waste management, the vision of how it will be achieved and the strategy for getting there, setting out the issues faced, options considered, key decisions and proposed solutions to deliver the strategy? Does the JCS cover all waste streams?*

136. The JCS shows a high level of consistency with national waste policy (in particular, PPS 10 and DEFRA’s “Waste Strategy for England 2007” CD 95 and CD 143). It has clearly been articulated in the context of the sustainable development agenda and the policies and targets are informed by other advice covering the WM. Technical evidence and other research at a sub regional level

(notably, CD 113 and CD 114) have informed the options considered and decisions taken around waste management.

137. The waste policies complement other JCS objectives on the economy and minerals and we note broad levels of support from relevant public sector bodies and commercial operators alike. The identification and protection of strategic sites and proposals (Policy WM3) will not adversely alter or prejudice the other goals within individual RCs and SCs. The JCS covers four waste streams (WM1 Table 17) with targets for each and there is a negligible amount of rural/agricultural waste, with no recorded radioactive waste.

*ii) Will the JCS achieve sustainable waste management, enabling sufficient opportunities for provision of waste management facilities in appropriate locations, including waste recovery, recycling and disposal, focusing on delivering the key planning objectives in PPS10, including the movement of waste up the hierarchy?*

138. The JCS embraces the principles of waste being handled as a resource and of it being moved up the hierarchy with prevention, re-use, recycling and recovery being preferred in turn over landfill. It has identified targets for the diversion of MSW and C&I waste streams to the year 2025/26 of 84% and 75% respectively and how these targets will be monitored (CD 161 and CD 114). It plans for zero growth in tonnage of waste arising by 2026, to be monitored in LOC WM1c.

139. Policy WM5 clarifies how all development proposals should promote resource efficiency on site to minimise waste generation. We consider the diversification of the types of waste management facility identified across the BC will support movement up the hierarchy, as well as allowing the Councils to manage more of their waste locally.

140. In response to a suggestion from Staffordshire County Council (ID74), the FPCs introduce a commitment to increase CD&EW recycling, while acknowledging the absence of robust data to provide a precise target. The FPCs include, among other matters, changes to Table 17 and an additional monitoring outcome (LOI WM3b). We support these alterations as part of a regeneration based strategy focused on the redevelopment of extensive areas of the BC’s existing industrial building stock.

*iii) Does the JCS explain how sites and areas suitable for new/enhanced waste management facilities will be identified, including the criteria that will guide actual allocations and the broad locations where these will be sought?*



141. The JCS makes appropriate provision for the protection and enhancement of existing facilities in Policy WM2; the implementation of proposals for strategic waste management infrastructure covering some of the BC’s waste (Policy WM3 and Waste KD); and other opportunities in RCs and SCs (Policy WM4). Where appropriate, sites are identified in RCs.

142. The identification of sites in Table 18 (Policy WM3) has been established through stakeholder engagement and technical research, using an assessment framework (Section 5 CD 114) informed by Annex E to PPS10. It is clear that this assessment framework has shaped the locational criteria for new waste management facilities in Policy WM4 and can also be used to inform relevant lower level DPDs.

143. From the evidence we are satisfied that the retention or provision of waste facilities in or close to SCs and RCs need not prejudice other regeneration focused, non waste-related, activities. The supporting text to Policy WM3 (paras 7.31 to 7.39) indicates that the limited residual requirements - not already identified in the JCS - will be brought forward through a combination of site allocations in other DPDs and planning applications. We are content with the FPCs to Policy WM4, which flesh out the assessment criteria for considering new waste management facilities.

### **Matter 10 – Sports and Recreation - Issues:**

*i) Does the JCS make sufficient provision in the south of the BC for recreational activity, including speedway racing, to support Spatial Objectives 5 and 8?*

144. Dudley has lost a number of outdoor sports facilities in recent years. A local speedway club has been running meetings in the area since its own stadium was redeveloped in the 1990s. Finding a new site in the BC is difficult owing to the club’s land requirements and the need to find a site away from housing, but financial backing to establish a new stadium is said to be available. There is a well-established speedway stadium in the BC (Wolverhampton Wolves). An additional speedway or other spectator sports stadium would complement the range of cultural and visitor activities.

145. However, we do not have sufficient detailed evidence to conclude that the JCS needs to make provision for a speedway track or any other spectator sports facility or, further, that a specific site should be identified in any one of the RCs. Rather, we find the FPCs to Policy EMP6 provide an appropriate level of policy support for a range of spectator sports stadia. These amendments give encouragement in principle for the promotion of spectator sports,

without committing the BC authorities to identifying a specific site now. We do not consider any further changes are necessary.

**Matter 11 – Centres/Retail (General) - Issues:**

*i) Does the JCS plan appropriately for the management and growth of centres over the plan period, focusing on higher level centres to provide a strategic framework and support initiatives to enhance economic regeneration?*

146. The JCS places great emphasis on the role of SCs in delivering sustainable communities and promoting economic prosperity, with increased levels of commercial and other activity directed within and close to centres that enjoy access to a range of forms of transport and other services. It sets ambitious targets for new office accommodation. All four SCs anticipate additional housing, much of which has already been committed. For West Bromwich, this is anticipated in RCs which overlap the illustrative SC boundary (Appendix 2). Planning for the growth of centres has been informed by the DIP (CD 161) and other studies such as the BCCS (CD 147).

147. The examination reviewed conflicting opinions on the reliability of the BCCS as the evidence base for the JCS shopping policies, most notably Policy CEN3. As a study which informs the whole of the BC, the Councils indicated that a “strategic approach” was adopted when examining the future across four local authority areas. This differed from the method suggested by consultants acting for Peel Holdings and other studies previously carried out elsewhere in England by GVA Grimley, the Councils’ consultants. The Councils considered a strategic approach appropriate given the large number of commitments and uncertainty over the eventual type and form of retail development to come forward across the study area over the plan period.

148. Convenience retail shopping has been handled differently to comparison shopping in the JCS in a number of respects. There is no target for convenience retailing for the SCs within Policy CSP1. The comparison retail target is expressed in square metres gross but the convenience retail figure in square metres net. The convenience retail needs of the SCs are not primarily drawn from the evidence base that supported the revoked RSS. The control of convenience shopping in each SC is not as critical to the vitality and viability of each centre as the amount of comparison shopping.

149. The examination considered the relevance of the convenience retail figures in Table 15 as they relate to Wolverhampton. There is some scope for difference of interpretation of the convenience retail needs of this SC predicated on the extent of overtrading in existing

SC supermarkets and at Bilston and Wednesfield. The Councils indicated that much of the Wolverhampton figure in Table 15 could be provided by a scheme at Raglan Street but there is uncertainty around deliverability on this site in the short to medium term in the light of a recent Supreme Court ruling. These differences are not capable of being resolved in the JCS but should instead be addressed in the AAP for Wolverhampton city centre.

150. Whilst the majority of additional convenience retailing across all four SCs will be met through existing commitments, we find Table 15 to be unnecessarily prescriptive in its intent and figures. Accordingly, we recommend (no. 4) that it be deleted, the supporting text amended (nos. 5 and 6) and the Centres Chapter and Appendix 2 altered accordingly (nos. 13 – 16 inclusive).

151. The FPCs insert Policy PA11A from the revoked RSS into Policy CEN3 establishing essential pre-requisites for the expansion of comparison shopping at Brierley Hill. We noted general support for this insertion at the examination and, further, find the FPC a helpful way of supporting the economic viability of other SCs, as well as pursuing sustainable transport policies (e.g. Policy TRAN1) and air quality goals (Policy ENV8). However, it was the intention of the revoked RSS to apply Policy PA11A to Merry Hill and not other parts of the Brierley Hill SC, e.g. new comparison retail floorspace on Brierley Hill High Street. We therefore recommend (no. 7) that Policy CEN3 (FPCs version) be altered to refer to Merry Hill only.

*ii) Are the JCS policies for the centres able to respond to changing economic circumstances and encourage, where appropriate, high-density development accessible by public transport, walking and cycling? Is it both reasonable and appropriate to set maximum amounts and phasing for proposed comparison and convenience shopping and office targets within the various centres?*

152. The increased role of the SCs and TCs as the focus for much of the BC’s future economic growth reflects an appreciation of changing economic circumstances over recent decades, such as the decline in local manufacturing since the 1970s. We have identified above that SCs will have a vital new role in the local economy.

153. Research supporting the revoked RSS provides a broadbrush evidentiary basis for relevant thresholds of development in Policy CEN3 and the basis for directing more investment towards SCs. The findings of this earlier research have been reinforced by the BCCS. Policies CEN4, CEN5 and CEN6 indicate lower thresholds for additional development in non-SCs and in parades of local shops not formally acknowledged as LCs. These policies demonstrate support for the expansion of the range of centres, while emphasising that

more of this expansion will take place in SCs, such as Walsall, West Bromwich and Wolverhampton, with good levels of public transport accessibility or, in the case of Brierley Hill/Merry Hill, following public transport improvements.

154. Other elements of the JCS (e.g. Policy HOU1 and Appendix 2) emphasise the extent of new housing planned for SCs and TCs with the highest levels of access to public transport and other facilities. Table 8 states that housing densities of over 60 dwellings per hectare net will be expected in SCs and TCs, where a range of public transport initiatives are proposed. We observed that all the SCs are linked via cycle routes.

155. The figures in the JCS relating to additional retail and other uses are targets to be planned for rather than maxima and contain provisions to permit additional development subject to the submission of retail impact assessments, thereby retaining an element of flexibility. We address the applicability of the figures for retail and office use for each SC and, where relevant, for TCs below and in Matters 12, 14, 16 and 18.

156. It is appropriate to phase development across SCs to protect centres from unbalanced growth across the BC (e.g. Brierley Hill and West Bromwich) and to prioritise investment into deprived areas consistent with PPS4. At the same time, we recognise that phasing has to have some level of flexibility and not be unduly prescriptive. Policy CEN3 identifies only two broad phases for the delivery of comparison retail floorspace, a reflection of the level of flexibility in the plan and the fact that comparison shopping cannot be neatly planned around five year slots.

*iii) Does the JCS define a network and hierarchy of centres resilient to anticipated future economic changes, to meet the needs of their catchments?*

157. Policies CEN1, 2 and 3 seek to direct higher order sub-regional retail, leisure and other uses to four SCs, balanced by a network of non-SCs (Policies CEN4 to CEN6) with markedly different functions, focusing on more local and day-to-day shopping needs. It has identified different thresholds for new development within different types of centres. The hierarchy is informed by qualitative and quantitative evidence, including a health check of individual centres which has identified two new centres and de-designated one existing centre from the hierarchy (CD 144 and CD 148 to 151). The approach to examining the existing network and evidence base that underpins these policies is consistent with PPS4. We address the status of Charterfield Shopping Centre and the future of Dudley following the SC designation of Brierley Hill in Matter 12 below.

*iv) Does the JCS define realistic primary and secondary frontages in designated centres and set policies that make clear which uses will be permitted in such locations?*

158. The JCS sets the broad strategy for the management of the BC’s centres. We do not think it appropriate that matters such as primary and secondary frontages be addressed in this document. This is pertinent for Brierley Hill too, even though its AAP is at an advanced stage of preparation. Rather, we accept this should be handled in AAPs and other DPDs. Appendix 2 to the FPCs version explicitly states that the JCS delineation of boundaries is illustrative.

159. It has been suggested the JCS is unsound because its approach to Use Class A2 activity (financial/professional services) is neither justified nor consistent with national policy and does not reflect the growing role of A2 uses, or their potential to attract pedestrian footfall and efforts to provide retail-type frontages.

160. We consider this overlooks a critical distinction between shops (Use Class A1) and A2 uses in national policy. Drawing on the definitions within Annex B to PPS 4, it is clear that the term “retail” means shops. It is therefore inappropriate to suggest that A2 uses are retail uses. Primary shopping areas and primary frontages are also defined as areas with high proportions of retail use. It is therefore appropriate that the JCS should focus on promoting retail uses as a priority.

161. On this basis, we find the emphasis in Policy CEN3 to focus on additional convenience and comparison retail uses appropriate. We do not think it necessary to further alter Policy CEN1 either. Instead, we find the text in the PC version of the JCS rightly emphasises the role that retail and non-retail uses such as banks can jointly play in contributing to the vitality and viability of the BC’s centres.

*v) Does the JCS set suitable and appropriate floorspace thresholds for the scale of edge-of-centre and out-of-centre development?*

162. The PC version of Policy CEN7 displays a high level of consistency with PPS 4, both in its definition of edge-of-centre and out-of-centre development and the articulation of how the policy will be applied. The FPCs to Policy CEN3 indicate that not all convenience retailing is expected to be provided on committed sites. Combined, Policy CEN7 and the FPCs to Policy CEN3 should be read as indicating that other edge or out of centre development may come forward, whilst paras 4.55 to 4.59 (FPCs version) identify how any such schemes should be considered.

*vi) Will the JCS proactively promote competitive town centre environments through leisure and other attractions? Should it make provision to manage the evening/ night time economy within the various strategic, town and other centres?*

163. The BCCS emphasises the scope for centres to improve their evening economy offer (CD 147 p105) and Policies CEN3 and EMP6 state that the SCs will be preferred locations for leisure, entertainment and cultural facilities. Walsall, West Bromwich and Wolverhampton are priority areas for new cinema provision. We accept that the detailed planning for such activities should be considered in “next stage” DPDs and the management of the night time economy by reference to Councils’ licensing policies and other partnerships outside the land use planning system.

*vii) Is the strong presumption against out of centre development in Policy CEN7 consistent with national policy in PPS 4?*

164. The approach taken in Policy CEN7 displays a high level of consistency with PPS 4 and does not necessarily rule out the possibility of out of centre development. Rather, it requires developers to apply a sequential test to justify development not in a centre. Out of centre development in what the JCS terms “local shops” would have to comply with other policy tests in Policy CEN6.

165. The FPCs remove para 4.58 of the PC version as this repeats much of para 4.57 and the word “strong” from para 4.57 as it does not add to the need for a developer to justify edge of centre or out of centre proposals.

*viii) Is it appropriate to mention charging policy for long stay parking in centres?*

166. Parking strategy plays an important role in the management of centres and sustainable transport choices, consistent with national policy in PPS1, PPS4 and PPG13 and is explicitly referred to in Policy TRAN1. Merry Hill shopping centre in Brierley Hill has an advantage over the other SCs in that it does not have long stay parking charges, reflecting the planning principles in place when it was first constructed. The planning regime around shopping centres and transport has moved on significantly since then. We also observed variations in parking charges and provision in TCs and DCs across the BC.

167. The JCS seeks to promote a balanced network of SCs (para 2.11) supported by TCs and other non-SCs. We have already accepted the FPCs to Policy CEN3 which restrict the expansion of Brierley Hill’s comparison retail offer until, among other things, the

introduction of a car parking management regime. Given the foregoing policy context and our acceptance of FPCs to Policy CEN3, it follows that we find it sound, in principle, to refer to parking charges in centres and to assert that they should not be used as a point of competition. We accept, further, that the delivery of this policy is best left to “next stage” DPDs.

168. We support the FPCs to Policy CEN8. The term “more generous” is uncertain in its intention and its replacement with “lower” makes clearer the intention of the policy as it relates to pricing in all centres.

**Matter 12 - SC – Brierley Hill (Dudley) - Issues:**

*i) How are sites for additional housing, comparison and convenience retail and office accommodation identified in Brierley Hill (SC1) (Appendix 2)?*

169. The JCS has evolved alongside the drafting of the Brierley Hill AAP (CD 149) which is at an advanced stage of preparation. The broadbrush proposals map SC1 identifies approximate locations for different land uses and has been informed by a Baseline Study and the Brierley Hill Regeneration Partnership Development and Investment Framework Report (2005), as well as other technical research (CD 144, 145 and 147). We note the general support for the framework and mix of uses, as well as the evidence of multi agency partnership working in developing it. We are therefore satisfied that there are realistic prospects of delivery for the JCS proposals relating to Brierley Hill. Nevertheless, it is appropriate that the detailed allocation of land uses be left to the AAP.

*ii) Is the proposed phasing of different sorts of new development within Brierley Hill SC appropriate?*

170. Appendix 1 to the submitted Brierley Hill AAP (CD 149) provides a justification for the phasing of different forms of development in the SC set out in broadbrush terms in Appendix 2 to the JCS. The bulk of the new comparison retail development in Brierley Hill – 65,000 sqm - is planned for the period 2009 to 2016.

171. We accept the need to take a flexible approach to phasing new comparison shopping as expansion is usually a market-driven, “lumpy” form of development. At the same time, we recognise that the phasing of new comparison retail development would allow for the balanced delivery of large-scale schemes across the SCs in the BC. The JCS adopts a flexible approach to project implementation by having only two general phases for its delivery. Nonetheless, in accepting the FPCs to Policy CEN3, it follows that no additional comparison retail development should be brought into operation

until, among other things, the introduction of extensive public transport improvements.

172. There is likely to be some difficulty in securing public sector financial contributions towards the new Metro line 2 in the short to medium term at least. Thus, there remains a possibility that the comparison retail expansion may not be brought into operation until after 2016. Nonetheless, we are satisfied that the delay or marginal departure from the proposed phasing need not affect the soundness of the JCS, noting that alternatives to light rail connections (e.g. rapid bus services) are being explored between project partners as a short term solution.

173. Recent housing development in Brierley Hill has been largely market-led. The Councils provided evidence that some recently constructed flats are attracting households from AB socio economic groups at rent levels commensurate with this JCS housing objective. We are satisfied the centre should be considered for more higher density housing having regard to the level of facilities locally and the likelihood of improved public transport.

174. The Councils acknowledge the office target is a long term aspiration. Other respondents observed that the office market in Brierley Hill was weak, despite the arrival of some good quality tenants into the Waterside development. We are satisfied much of the additional office space proposed would require redevelopment of sites used as surface car parks or in other beneficial use. Thus we do not find the ambitious office target would sterilise land in the SC suitable for office development, even if not taken up by 2026.

*iii) What are the specific local challenges around providing a mix of dwelling types and tenures at a variety of densities suitable to a Town Centre to accommodate a balanced population?*

175. The baseline work informing the JCS and AAP reveals that masterplanning for an expanded centre has been carried out, having regard to the centre’s topography, nature conservation assets and the need for improved infrastructure (CD 149). We are satisfied the extended nature of the centre could in principle accommodate a mix of household types in different locations.

*iv) How would services associated with new inward population be provided within Brierley Hill SC, including education, leisure, health care and other community facilities?*

176. The AAP proposes additional restaurants and commercial leisure facilities that could be used by residents in an expanded centre. New health and social care facilities have recently opened.



Dudley MBC is reviewing schools provision across the borough and Stourbridge College has expressed an interest in investing in the centre. It appears from this evidence that the needs of a new inward population have been anticipated. Notwithstanding, Policy DEL 1 makes provision for other DPDs to identify the detailed infrastructure needs of local areas and requires proposals to be supported by necessary on and off site provision.

*v) What role will other service providers play in delivering a vibrant, inclusive and accessible strategic town centre?*

177. We observed considerable evidence of fruitful, multi-agency working in masterplanning and implementing the vision for an expanded SC at Brierley Hill. This joint action has extended to working with utility providers to test the deliverability of the plans (CD 166). It is reasonable to conclude that this partnership working will continue.

*vi) Is it appropriate that Dudley should be a town centre rather than a SC? What is the justification for the thresholds for retail and office development within Dudley town centre relative to other centres? How will the plans for Brierley Hill impact on Dudley?*

178. Dudley town centre is overshadowed by Brierley Hill having regard to retail floorspace and its offer as a centre. It has a smaller amount of commercial space than West Bromwich, the smallest of the four SCs. Both the Investment Analysis and Future Investment Potential of the Black Country Retail Centres report of 2006 (Chase and Partners) and the Black Country Centres Study (CD 144) confirm the centre was in decline before and after the construction of Merry Hill shopping centre. It is also constrained by topographical and heritage factors and any major expansion in convenience or comparison retail of the scale proposed at Brierley Hill would have to turn its back on the traditional high street.

179. Dudley plainly cannot compete with Brierley Hill as a centre, nor indeed would it be sound that Dudley, rather than Brierley Hill, should be the SC, chiefly owing to the current role that Brierley Hill plays in the BC retail hierarchy. We accept further the evidence that the dilution of Brierley Hill’s appeal as a sub-regional centre by diverting spend to centres like Dudley would effectively encourage spend outside the BC. An extended SC stretching from Brierley Hill via RC11a to Dudley via swathes of industrial land is not a viable option either.

180. On the other hand, Dudley has a cluster of heritage assets, including a castle, zoo and museum, and a distinctive local market. The Castle Hill Project seeks to link these assets physically to one

another and the centre. Dudley also serves an administrative role within the local authority with substantial office floorspace. On this basis, we accept that the centre is the “first among equals” among non-SCs and that it is appropriate to plan for its future role on this basis. The indicative targets for both additional convenience and comparative retail are therefore justified with reference to evidence from the BCCS (CD 144) and the distinctive role that Dudley has among non-SCs.

vii) *Should Charterfield shopping centre be re-categorised as a small district centre?*

181. The BCCS indicates that Charterfield shopping centre was built in the 1970s (CD 144 p. 56) and identifies the Morrisons supermarket as an out-of-centre convenience store (p. 64). However, it clearly forms part of a wider centre with a number of smaller units providing supporting uses compatible with a local centre, including an off licence, hair and beauty shops, restaurants and take away uses. The centre currently demonstrates a high level of vitality and viability with only one of the smaller units unoccupied. Reflecting the era of its construction, it benefits from substantial off street parking relative to neighbouring Kingswinford and Wall Heath but does not enjoy the same level of public transport accessibility.

182. The BCCS indicates that Kingswinford is undertrading as a centre in contrast with the Morrisons store at Charterfield and, further, that Kingswinford attracts a lot of its top up shopping from a very limited catchment area. Nonetheless, we concur with the findings of the BCCS that Kingswinford in particular appears to be in overall good health with retail, leisure (pubs/restaurants) and municipal uses, such as a library.

183. The BCCS (CD 144) also recommends that Hawne and Oldswinford be designated as new local centres based on their viability and vitality, anchor convenience shopping, opportunities for expansion and the presence of shoppers’ parking. By these criteria, it might be implied that Charterfield Shopping Centre could be designated as a district or local centre too. However, it is worth noting that Hawne and Oldswinford are older traditional strip shopping centres formed along the historic road network. Both centres have more individual units than Charterfield and enjoy better public transport access. Oldswinford is within walking distance of Stourbridge Junction station.

184. The implication of designating Charterfield as a district centre is that Policy CEN5 would apply. This would permit additional convenience retail developments of up to 500 sqm and office/leisure

and comparison retail developments of up to 200 sqm. Otherwise, Policy CEN6 would apply. This would only permit new small-scale retail development or extensions to existing stores of up to 200 sqm subject to a number of requirements, including whether such local provision could not be better met by investment in a nearby centre.

185. PPS 4 (Policy EC3.1.b) confirms that, in identifying a network of centres, local authorities should make choices about which centres will accommodate growth along with any deficiencies in the network. Identified deficiencies should be addressed by promoting centres to function at a higher level in the hierarchy.

186. There is inherent merit in planning terms in directing any future retail spend into Kingswinford. This is chiefly because of the extent to which it undertrades relative to Charterfield and the implicit risk of harm from an expansion at Charterfield permitted by Policy CEN5 on the vitality and viability of Kingswinford. More critically, we find that additional convenience trade should be directed to Kingswinford because of its better access to public transport. Accordingly, we find Charterfield should not be included as a separate district or local centre.

viii) *What amount of convenience shopping is proposed for Lye (Policy CEN5) and what is the logic for this quantum of floorspace, relative to other district and local centres?*

187. Lye operates as a district centre but, uniquely within the BC, does not have an anchor foodstore and has a very limited comparison offer too. Its vitality and attractiveness are constrained by heavy traffic on the High Street, whilst the commercial stock appears dated with limited signs of recent investment. It also has a diluted shopping catchment area. The BCCS (CD 144) confirms it does not perform at the same level as other comparative non-SCs with a similar quantum of floorspace.

188. The initiative to promote an anchor foodstore in a declining centre is consistent with PPS4 Policy EC 3.1.b iii and forms a key recommendation of CD 144. We understand the indicative figure of 650 sqm relates to a former Dudley UDP (CD G1) site allocation and an extant planning permission. We endorse the approach of proactively planning for a larger foodstore within Policy CEN5, relative to other comparative centres. A new foodstore would also have the benefit of complementing local regeneration initiatives to promote additional housing north and east of Lye to create an urban village identified in RC13.

## **Matter 14 - SC - Wolverhampton - Issues:**

*i) How are sites for additional housing, retail and office accommodation identified in Wolverhampton SC in SC4 (Appendix 2)? What constraints are there in releasing land for development within the city centre (e.g. in the Canalside Quarter)?*

189. Policy SC4 identifies a range of SC related uses across a number of development sites. The mix has been informed by previous grants of planning permission, as well as previous plans such as the 2000 Canalside Quarter Implementation Plan (CD 153) and the Wolverhampton UDP (CD G4). The DIP (CD 161) has identified that there are no major capacity obstacles to implementing the development.

190. Nonetheless, there are some challenges around site development. In addition to the costs of site decontamination and works to listed buildings, we heard evidence of the difficulties or redeveloping the Raglan Street site for retail uses following a recent Supreme Court decision. Likewise, the completion of development at Victoria Hall for housing may be in doubt following legal action relating to its proximity to gas holders on the Carver’s site. Indeed, activities on the Carver’s site could potentially affect other sensitive land uses close to the city centre.

191. Peel Holdings maintain that additional convenience retail floorspace should be planned for in Wolverhampton SC given the extent of overtrading at existing centres, including Bilston and Wednesfield, as well as the uncertainty around the Raglan Street site. The implication is that the Peel Centre north of the city centre PSA could accommodate some of this growth. As a starting point, we express no view on whether additional convenience retail development should be on the Peel Centre Retail Park or at Raglan Street and consider this matter is best reserved for consideration in the Wolverhampton City Centre AAP.

192. We have already indicated above that the prescriptive convenience retail target in Table 15 should be deleted and our support for FPCs to Policy CEN3, which seek to remove the word “vast”, confirming that the majority of convenience retailing in all four SCs is expected from existing commitments. Applying the altered policy to Wolverhampton SC gives additional flexibility as to a selected site (or sites) for further convenience retail.

193. Looking at all of the floorspace targets proposed across the SC, the city centre appears broadly to be able to accommodate the different targets of development either at the indicative sites in SC4

or, failing that, at other sites within the SC. We are also aware that the FPCs state explicitly that the delineation of boundaries, as well as the figures provided are illustrative and only included to give an indication of the scale of change proposed and, further, that the office target is now a maximum of 220,000 sqm, rather than around 220,000 sqm. It is appropriate that the forthcoming Wolverhampton City Centre AAP should address the detailed allocation of sites and the programme for delivering these development targets.

*ii) Is the proposed phasing of different sorts of new development within Wolverhampton SC appropriate?*

194. We have already accepted the merit of balancing the growth of the different SCs across the BC in such a way that one does not expand at the expense of the others. In this context, we accept the logic of the phasing of different forms of retail development. The targets for additional comparison retail are planned over two phases, the first phase ending in 2021, before which a review of the JCS is scheduled. We find the approach to phasing displays an inherent level of flexibility.

*iii) Will the targets for additional retail development affect other local centres, most notably Bilston and Wednesfield?*

195. It is appropriate that the JCS plans to direct most additional comparison retailing into Wolverhampton and other SCs, rather than Bilston or Wednesfield. Policy CEN4 indicates an additional 500 sqm of comparison retailing would be appropriate in each. On the matter of convenience retailing, we recommend that Table 15 to Policy CEN3 should be deleted. The implication of any altered final figure for Wolverhampton in a “next stage” DPD will be reviewed at that stage, together with the impact on Bilston and Wednesfield.

*iv) How would services associated with new inward population be provided within Wolverhampton SC?*

196. Two-thirds of the new housing in the SC to be provided over the plan period has been committed on sites already subject to planning obligations. It is inherently sound, in principle, to seek to locate additional housing close to the range of services in the city centre while taking account of the presence of other existing potentially sensitive land uses, such as the Carver’s site. In the absence of a CIL scheme, Policy DEL1 provides a mechanism for the negotiation of appropriate development contributions through planning obligations. Accordingly, we are satisfied there is a mechanism in place to secure additional development contributions

for essential social infrastructure required as a result of more residents moving into the city centre.

*v) What role should the University of Wolverhampton and other education providers play in the regeneration of Wolverhampton SC?*

197. Appendix 2 to the JCS (SC4) acknowledges the university’s contribution to the city and regional economy. We have already endorsed FPCs to Policy HOU5, which state more explicitly how the university and other education providers (e.g. Wolverhampton College) can support the economic and social objectives of the JCS. The FPCs also confirm support for the physical enhancement of further and higher education facilities, some of are within or close to the city centre. The FPCs fairly reflect and will facilitate the potential of an expanded further and higher education sector in delivering the spatial vision for Wolverhampton SC.

*vi) What role will other service providers play in delivering the creation of a “confident” City Centre?*

198. The Councils have identified a number of investment projects underway from the private and public sectors, including a new Hilton hotel, as well as investment from the higher and further education sectors, the potential extension of the Molineux stadium and a range of public transport projects. It is clear that services will be provided by both the private and public sectors and we are aware of extensive partnership working to date.

*vii) and viii) Is it appropriate that the JCS set fixed boundaries for its various strategic, town and other centres? Is it appropriate that the Wednesfield town centre boundary incorporate Sainsburys supermarket?*

199. The PCs version of the JCS clarifies at para 4.39 that any adjustments to the boundaries of the various centres shown in each of the current Local Plan Proposals Maps will be considered in subsequent DPDs to be prepared by individual Councils. We are content that this level of detail about boundaries should be handled in “next stage” DPDs. Accordingly, we pass no comment on the appropriateness of the current centre boundary at Wednesfield or any other centre across the BC.

#### **Matter 16 - SC - Walsall - Issues:**

*i) How are sites for additional housing, retail and office accommodation identified in Walsall SC in SC3 (Appendix 2)?*

200. Policy SC3 identifies distinct precincts for a range of different uses within a regenerated SC, with many of the various JCS targets

for Walsall reflecting existing commitments. For example, a distinctive canalside residential/mixed use quarter is developing around the new Art Gallery that will deliver much of the centre’s new housing. Most of the planned increase in convenience shopping can be provided on the former Walsall College of Art and Technology site (currently under construction) and in the Walsall Waterfront North development (outline planning permission).

201. The Councils and the Walsall Regeneration Company acknowledge the additional office figure in Policy CEN3 represents an ambitious long term goal. Outline planning permission has been granted for 127,000 sqm of new office space around the Gigaport site north of the core of the SC. It is intended that the completion of the Walsall ring road, investment in fibre optic cabling and the relocation of Walsall College into new and architecturally distinctive premises will help to attract other tenants.

202. It has been suggested that the primary shopping area (PSA) within Walsall be extended to encompass the Crown Wharf Shopping Park. This centre is located north west of the present retail core and is subject to planning controls restricting the size of individual units, extent of non-clothing retail and food uses. The supporting text to the PC version of Appendix 2 for Walsall states that the PSA will be the preferred location for retail development with the exact boundaries to be fixed in the Walsall SC AAP.

203. We concur with this approach and do not comment on the illustrative PSA boundary in the plan accompanying SC3, beyond noting that it follows the current Walsall UDP Proposals Map. We find there is no more merit in identifying Crown Wharf Shopping Park as an opportunity as there is the St Matthews Quarter, Shannon Mills site or other sites in the centre. We are therefore content for this to be left to the Walsall SC AAP for resolution.

*ii) How would services associated with new inward population be provided within Walsall SC?*

204. Relative to Brierley Hill and Wolverhampton, the JCS envisages a significantly smaller amount of new housing (450 to 500 new homes) over the plan period. Much of this is already under construction. This new waterfront housing will be well connected to the range of facilities and public transport in the SC, also providing key worker housing for the new Walsall Manor Hospital.

*iii) Is the proposed phasing of different sorts of new development within Walsall SC appropriate?*

205. The examination focused on the phasing of comparison retail floorspace, given that convenience retail and housing targets relate

largely to existing commitments that should be completed in the short to medium term and the local office target is a long term ambition to be delivered chiefly on two sites. Policy CEN 3 envisages comparison retail being phased over two stages during the plan period across all four SCs. It is acknowledged that comparative retail development is a “lumpy” form of development and we acknowledge that indicative phasing of new comparison retail development would allow for the balanced delivery of large-scale comparison retail across the SCs in the BC.

*iv) How are the plans to regenerate Walsall SC with mixed residential and business use consistent with commitments to keep waste management facilities (e.g. at Town Wharf Business Park) and mineral safeguarding requirements?*

206. The scale of waste-related activity envisaged at Town Wharf Business Park would not prejudice adjacent sites from being developed for other uses appropriate within a SC. There are no strategic waste management infrastructure facilities (Policy WM3) in Walsall SC and any proposal in excess of 5 ha would be subject to the policy requirement of Policy MIN1 to demonstrate that minerals are not being needlessly sterilised.

*v) What role will other service providers play in the regeneration of Walsall SC?*

207. As with the other SCs, we heard substantial evidence of multi-agency collaboration that has secured a number of regeneration goals, e.g. the Waterfront South development. We endorse this level of joined up working and anticipate that such partnerships will continue to be critical to implementing the JCS vision for Walsall.

**Matter 18 - SC – West Bromwich - Issues:**

*i) Does the map accompanying SC2 (Appendix 2) clarify the relevant precincts in the SC where regeneration activity is proposed (e.g. Eastern Gateway, Lyng/ Carter’s Green and Greets Green)?*

208. The indicative map for West Bromwich SC is scant in its detail relative to the other SCs such that it is difficult to understand the indicative SC boundary relative to other adjacent RCs. Errors were identified on the illustrative boundaries for RC8 and 9 (e.g. the JCS Housing KD showing a housing growth area outside the RCs).

209. We welcome the other changes in the FPCs version to Appendix 2 setting out the scale of development site opportunities on which the future of the SC has been planned.



ii) *How are sites for additional housing, retail and offices identified in West Bromwich SC in SC2 (Appendix 2)?*

210. The boundaries of the SC overlap with RCs 8, 9 and 12. The Councils clarified that housing proposed within the SC has been identified in these RCs. The FPCs version of the map in Appendix 2 clarifies the locations for expanded retail activity. West Bromwich centre has not seen speculative office development since the 1970s but recent feedback from developers indicates that the area would be a suitable location for offices, given its proximity to Birmingham and the M5 and the relatively low land prices locally. A number of sites in the SC have been identified for office development or are under construction.

211. Nonetheless, a proportion of the additional offices for West Bromwich would be delivered in the corridor between the SC and the M5, taking advantage of proximity to a range of forms of transport. We are content for this to be addressed in more detail in the West Bromwich AAP and find that the FPCs to CEN3 now address this matter appropriately.

iii) *Is the proposed phasing of different sorts of new development within West Bromwich SC appropriate?*

212. Consistent with other SCs, most of the delivery of the office element of the plans for West Bromwich is likely to be towards the end of the plan period. The Councils say that achieving this target would not sterilise other land for development because most of the potential sites are already in a beneficial use. Much of the retail provision could be provided in the period to 2021 through a number of existing commitments.

iv) *How would services associated with a new, inward population be provided within West Bromwich SC?*

213. We are content that new housing being built around the SC, especially in the Lyng area, Carter’s Green and Greets Green, is supported by suitable health, leisure and recreational facilities.

v) *How are the plans to regenerate West Bromwich SC with mixed residential and business uses consistent with keeping waste management facilities and mineral safeguarding requirements?*

214. There are no strategic waste management infrastructure facilities located close to the SC (Policies WM3 and WM4). Nearly the whole of the BC is located within a mineral safeguarding area. While a number of development sites within or close to West Bromwich SC may exceed 5ha, Policy MIN1 provides an appropriate

threshold for assessing if minerals should be exploited before sites are redeveloped.

*vi) What role will other service providers play in the regeneration of West Bromwich SC?*

215. The Councils provided evidence of the role of public agencies (e.g. the PCT, and the police) as investors in the town centre as well as cross sector partnership working. West Bromwich is one of the BC’s 20 IILs and we heard evidence of other activity to fund infrastructure improvements. The FPCs to Appendix 2 confirm that investment from the New Deal for Community programme at Greets Green has now ended.

**Matters 13, 15, 17 and 19 - Regeneration Corridors - Issues:**

*i) In each corridor, is there a robust and realistic evidence base to justify the nature and extent of the designation?*

216. There was strong and consistent support for the concept of identifying RCs in the JCS. This was particularly due to the benefits of the increased certainty for potential investors that it provides, which had been evidenced of late despite the recent economic recession. Given the often complex patterns of land use and ownership across the BC, where neighbouring uses can act as a constraint on alternative development opportunities, we endorse the concept as expressed in the JCS.

217. This is on the basis that the important issue of the boundaries of employment sites and areas to be retained will be decided in subsequent DPDs, taking the above factors into account. In this context we understand the need for confirmation that the figures for new housing sites, both individually and collectively in each RC, are indicative assessments of capacity, rather than targets or maxima, and may be refined later.

218. Representors made many site-specific objections relating to the potential residential yield of individual sites, seeking clarification on whether specific sites would be identified for residential purposes or seeking to include other land within an RC. The Councils accept that, while the RCs show a level of detail about regeneration areas, their boundaries in the JCS are illustrative only at this stage. References to specific sites are indicative and intended only to give a broad assessment of the scale of change the JCS seeks to achieve. Nonetheless, a number of participants at the examination, notably those representing developers, expressed support for the

idea that the RCs should give some numerical indication of the extent of change anticipated over the lifetime of the plan.

219. The FPCs to Appendix 2 make clear that it should not be read as a prescriptive document. The introductory paragraph and the maps accompanying each of the RCs would be altered by the insertion of the word “around” on all sites and areas identified with a potential residential yield. There is a further note indicating that the boundaries and specific land use designations of the RCs are illustrative only. In our view, these explicit FPCs address the concerns raised by the site specific types of representor submissions satisfactorily. Moreover, we do not consider it appropriate that the JCS set out in detail how individual RCs will be developed as these are matters to be determined in “next stage” DPDs.

220. The indicative proposals for each RC have been developed through the issues and preferred options stages and the proposals informed by a number of technical studies, most notably the housing capacity study (CD 4), the four Council SHLAAS (CD 20, 21, 22 and 23), relevant employment land studies (CD 26 to 29 and J13), CD 161, CD 166 and CD 167.

221. Therefore, we are in no doubt that the thrust and extent of change anticipated across the RCs is built on a robust and a realistic evidence base. This includes in respect of the identification and purposes of each of the designations, as well as their general extent. Nonetheless, it is appropriate that the specific boundaries thereof should remain to be considered in detail in AAPs and other subsequent DPDs as necessary.

*ii) Can the JCS proposals, including the necessary services and facilities to accompany new development, be delivered within the plan period; for example are there any significant physical, environmental and/or infrastructure constraints?*

222. The Councils acknowledge there are particular regeneration constraints that need to be overcome in some places, such as ground conditions in areas subject to former mining activity, e.g. in RC 4. Nevertheless, we have noted that major sites have proved to be deliverable in the recent past and that local opportunities continue to attract private investor interest. We have no reason to doubt that this will continue over the plan period, albeit the pace is likely to be dictated by the state of the national and local economy.

223. DIP (CD 161) highlights new infrastructure identified or planned for in each RC and policy DEL1 identifies when it might be appropriate for the Councils to secure developer contributions towards costs. In a broadbrush way, Appendix 2 identifies relevant

constraints in the RCs and provides sufficient detail to materially reduce the risk of conflict between land uses. By way of example, in RC 8 land has been identified for a strategic waste facility and other parts of the RC with potential for residential growth designated so that the regeneration of this corridor should not result in incompatible uses being located close to one another.

224. We welcome the FPCs which clarify a number of additional matters, including the removal of the specific identifications as to whether regeneration in each corridor is “housing led” or “employment led”, as they were not intended to be exclusive and might have unnecessarily constrained the flexibility of Councils to plan effectively at the more local level in terms of identifying specific opportunities. We also specifically endorse minor changes around the provision of potential new sports facilities, changes to the area south of Pelsall Road in RC 15 and in relation to housing around the major employment area at Pensnett.

*iii) In the light of the above, has the supply of PDL sites for redevelopment been thoroughly considered or, if not, have potential areas been omitted without good reason[s]?*

225. The SHLAAs and employment studies have explored which sites could come forward. They demonstrate that there is no proven need for considering areas not defined as PDL for development within the RCs. In particular, as concluded elsewhere in this report, we see no justification for the release of GB land to meet new housing or employment land needs across the BC within the plan period.

*iv) What level of precision should be included within each RC on individual sites, their capacity to accommodate residential or employment uses, having regard to Appendix 2 to the JCS? Is it appropriate that the JCS make adjustments to, for example, Green Belt boundaries?*

226. For the reasons set out above, we support the broadbrush approach to area designation and the indicative residential and employment land yields for individual RCs. It has been suggested that clearer guidance be offered on specific RCs, e.g. RC 9 which is planned to accommodate the greatest amount of housing. However, we are satisfied that this is not necessary in a JCS and that the level of information is sufficient to guide the preparation of subsequent AAPs etc, where more detailed decisions will need to be taken. We have confirmed above that it is not necessary, nor has any sound justification been provided, that development in the RCs be accompanied by the release of GB land to meet identified needs.

v) *Is it appropriate that the JCS identify phased targeting for specific forms of development in particular corridors if other land could be released earlier than indicated?*

227. The only phasing element within the RCs is for housing, which has been informed, in part, by the SHLAAs. We find it important that, in areas where significant change is expected and in a plan that envisages the widespread and large scale redevelopment of employment land for housing, the JCS should not set “hope value” signals by releasing land too early. Otherwise, industrial land capable of a short to medium term beneficial use could potentially be sterilised.

228. The JCS is soundly based on maintaining an appropriate balance between redevelopment for new housing and the retention/improvement of employment land and buildings over the plan period. Having said that, it is clear that neither the JCS in general nor the RCs in detail seek to preclude a faster rate of new housing delivery than anticipated in the SHLAAs on suitable sites should this prove possible.

vi) *Are the implementation and monitoring mechanisms for delivery in the RCs reasonable and realistic, including in terms of funding and phasing?*

229. We are broadly satisfied with the vision for the RCs and the mechanisms for both working up more detailed plans and then delivering the regeneration of each of the RCs. We address these points in more detail below (Matter 22) and have already considered aspects of delivering the overall vision for the BC above. The FPCs to Appendix 2 have, in part, removed references to streams of funding and programmes no longer in operation (e.g. New Deal for Communities and the Evolve Partnership) or about to be overhauled (e.g. the Building Schools for the Future programme). These deletions do not alter the objectives or implementation of the JCS.

**Matters 20, 21, 22 and 23 - Infrastructure, Flexibility, Delivery and Monitoring - Issues:**

i) *Infrastructure – Bearing in mind the phasing and funding required, is the overall strategy economically viable and practically achievable in the timescales envisaged and in the form proposed and, if not, what should be changed to enhance the prospects for delivery?*

230. Particularly under present circumstances, it is highly relevant that the overall strategy is primarily focussed on redevelopment in the growth network of SCs and RCs and therefore mainly makes use

of existing infrastructure. Some modernisation is likely to be required, together with the upgrading of capacity in certain respects over time, e.g. perhaps for water supply, in some RCs. Nevertheless, all the available evidence indicates that there are no new elements so fundamental that their absence would preclude delivery of redevelopment schemes in the more sustainable locations throughout the BC.

231. We have been impressed by the continuing and comprehensive level and extent of co-operation evident in the JCS and its supporting documents, both between the four Councils and with the many other interested parties concerned with the implementation of the strategy. This is reflected in the effective overall consensus on the list of priority schemes sought by 2026.

232. Consequently, in the light of the above, we are content that the JCS provides a suitable framework for the “next stages” DPDs across the BC in terms of infrastructure planning and provision. In particular, we consider that policy DEL 1 sets out relevant and appropriate criteria, against which new infrastructure needs may be assessed for development proposals, in relation to national guidance, including the introduction of a potential CIL scheme.

*ii) Flexibility – Is the JCS reasonably flexible to enable it to deal with changing circumstances and, if not, what changes/contingencies would improve the ability to respond to new issues arising during the plan period, such as a lack of investment in major projects?*

233. Throughout this report we have noted particular instances of flexibility apparent in the policies and proposals of the JCS, including the recognition by the Councils that the phasing in Table 6 on new housing is indicative and not prescriptive, for example. At this moment in time especially, we are reassured about the level of flexibility built into the JCS by the following factors.

234. Firstly, it is acknowledged throughout that the pace and scale of change will not be constant over the plan period but inevitably affected by the state of the national/international economy, the availability of regional/sub regional resources and the strength of local market forces, as well as area/site specific issues.

235. Secondly, the commitment of the four Councils to a new joint monitoring regime, on a quarterly basis, through a formalised Co-Ordination and Delivery team (CD 161) that will have overall responsibility for implementation across the BC, as well as the identification of priorities, particularly when circumstances change. This will be undertaken in addition to each Councils normal AMR

process and should allow for any necessary changes/alterations to come forward earlier than might otherwise be the case and on a consistent basis across the BC.

236. Thirdly, the Councils’ firm commitment to a full Review of the JCS, which, if started around five years after adoption in 2016 might be completed about half way through the total plan period. Taking all of these factors into account we conclude that the JCS is generally sufficiently flexible to deal with changing circumstances.

*iii) Monitoring - Will the monitoring proposed throughout the JCS, including in individual policies and section 9, be sufficiently comprehensive and informative to achieve its objectives and if not, why not, and what needs to be changed?*

237. Following the recent revocation of the RSS, the Councils now acknowledge that it would be helpful if the JCS also contained new housing targets by authority and in five year phases, in addition to the overall figure. These are based on existing information already in the JCS (Policy HOU1) and the respective SHLAAs, with a one third/two thirds split relating to the 2016 – 2021 and 2021 – 2026 periods. Given that they indicate a potential 25% surplus of land capacity in the BC as a whole, we are satisfied that their inclusion is appropriate and helps to confirm that flexibility is available in terms of new housing delivery. We therefore endorse the relevant FPCs.

238. Taking the above into account, as well as the joint Council commitment to a new Co-ordination and Delivery Team across the BC, we consider the JCS provides a suitable and satisfactory framework for monitoring, consistent with the relevant national guidance in PPS 12. Specifically, we note that appropriate output indicators, both Core (COI) and Local (LOI), are included with each policy and that the targets, whilst very challenging in some cases, are not so unrealistic as to be unsound in any particular instance.

239. We are therefore satisfied that each one is capable of being monitored satisfactorily and of providing the information necessary to inform policy review if required, within the overall framework set out, albeit briefly, in section 9 of the JCS. Moreover, we conclude that, subject to the necessary level of resources continuing to be made available for the joint supervision and co-ordination necessary to ensure consistency, in addition to the individual AMRs, the JCS monitoring process should be comprehensive. It should also be suitably informative so as to play its proper part in achieving the JCS objectives over time.

*iv) Delivery – Are the implementation mechanisms identified sufficient and suitable to achieve their objectives, for example*

*in relation to gypsy and traveller pitches, and, if not, why not, and what needs to be changed?*

240. In the present “void of uncertainty” regarding public sector funds for new infrastructure and investment projects, including transport improvements, the overall economic viability of numerous developments is likely to be affected. More specifically, their realistic dates for implementation may well be delayed, at best. However, the BC is fortunate in that most development in the early years of the plan period is expected on PDL and committed or allocated land, where it can utilise mainly existing infrastructure.

241. Beyond those already under construction or legally committed (CD J5), many of the most important new infrastructure projects, including major transport schemes such as the Metro Line 2, have not been anticipated as deliverable until the second half of the plan period in any event. Therefore, it should be a relatively straightforward matter for the DIP (CD 161) to be revised accordingly once the outcomes of the national CSR and the BC’s bid for a Local Enterprise Partnership are known later this year. Given the short/medium term alternatives potentially available in the case of Metro Line 2, we do not consider that the current uncertainty over the deliverability and/or timing of that scheme renders the remainder of the JCS and/or its objectives unsound, in principle.

242. Notwithstanding, we recognise that particular difficulties in relation to the funding of trunk road improvements, notably on the M5 and M6 junctions, remain to be fully resolved, at least whilst the current “void of uncertainty” persists. As referred to under Matter 7 – Transport, such details cannot be finally resolved via the JCS and, in our view, it is sufficient in strategic terms that they are listed in Policy TRAN1 as “key transport priorities” for the plan period. The FPCs, including the additions to paras 2.41, 2.51, 5.14 and 5.17, provide useful clarification and further guidance for all concerned.

243. Whilst less than ideal given present levels of traffic congestion, we accept the consensus view that none of the junction schemes, either individually or jointly, constitutes a “showstopper” at the moment, in the sense that it must be completed in full before any redevelopment projects in the BC come forward, including in the SCs in particular. In addition, we note the local proposals for a CIL scheme that could provide another source of funds for local infrastructure improvements throughout the BC. This could help to ensure that the motorway junction improvements, including at junction 2 of the M54, become more readily deliverable, potentially on a phased basis and with funding from a variety of national, local and private sector sources, over the whole of the plan period.



244. In other respects we take the view that the JCS retains sufficient flexibility to adapt to circumstances whereby significantly less public funding is available to the Councils and their partners without materially undermining its aims and objectives. Our judgement on this issue is reinforced by the clear evidence of a strong track record of delivery in the recent past, despite previous economic recessions, on a partnership basis between Councils, national and local agencies and the private sector.

245. We note the evidence from private sector representatives to this effect and the increased confidence it is said to provide, to which the final adopted JCS would add. It is common ground that a joint will to achieve regeneration of the BC continues to exist, as evidenced by the early and comprehensive bid to form a new LEP as soon as possible to help bid for whatever public sector and other investment funding sources remain available in the future. Consequently, we conclude that the JCS implementation and delivery mechanisms are suitable and satisfactory to achieve their objectives over the whole of the plan period.

### **Overall Conclusion and Recommendation**

246. We conclude that with the changes proposed by the Councils set out in Appendix A, along with the changes that we recommend above and set out in Appendix B, the Black Country Joint Core Strategy DPD satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in PPS 12. Therefore we recommend that the plan be changed accordingly.

*Nigel Payne and Vincent Maher*

### **Inspectors**

This report is accompanied by:

Appendix A (separate document)

Appendix B (attached)