

**Gladman Developments Ltd**  
**South Gloucestershire Examination of the Policies, Sites  
& Places Plan**

**Issue 1**

**In the light of the acknowledged shortfall in the Council's 5 year housing land supply when measured against the requirement in the Core Strategy, can the PSPP be 'sound' in the absence of non-strategic allocations?**



January 2017

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## 1.1 In the light of the acknowledged shortfall in the Council's 5 year housing land supply when measured against the requirement in the Core Strategy, can the PSPP be 'sound' in the absence of non-strategic allocations?

1.1.1 The South Gloucestershire Local Plan (SGLP) is predicated on a housing requirement that was based on a Strategic Housing Market Assessment (SHMA) that was not Framework compliant. When commenting upon the Core Strategy, the Inspector in his report stated that:

*"The NPPF requires councils to undertake an objective assessment of housing needs (paragraph 47). South Gloucestershire's assessment was carried out before national policy changed but was done in the context of a more limited Housing Market Assessment (HMA)". (para 72)*

1.1.2 The Inspector went on to suggest that:

*"Without a NPPF compliant SHMA the degree of reliance that can be placed upon this figure is uncertain because it is not clear what the housing needs of the wider HMA are and whether joint working between the relevant authorities would require revisions to housing targets before the end of the plan period. There is, however, a reasonable expectation that any deficiencies in the information base will be identified through the findings of a new SMHA which can be taken into account in the review".*

1.1.3 The housing requirement contained within the Core Strategy therefore does not represent the full, Objectively Assessed Needs (OAN) for housing as required by the Framework and therefore, the Core Strategy housing requirement is out-of-date by virtue of paragraph 47 of the Framework.

1.1.4 Although the Wokingham Judgment<sup>1</sup> provides some justification for the application of the Council's approach to continue with the Policies, Sites and Places Plan in legal terms, Gladman believes that there is a pressing need for the Council to review the Core Strategy nonetheless.

1.1.5 It would be a mistake for the Council to read the Wokingham Judgment in isolation. The Hunston Judgments<sup>2</sup> clearly demonstrate the necessity for Councils to undertake an exercise that defines the objective assessment of housing needs for an authority in order to inform the housing requirement. Hunston also establishes that the OAN will be used in section 78 appeals where Local

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<sup>1</sup> See Gladman Developments vs Wokingham Borough Council [2014] EWHC 2320 (admin).

<sup>2</sup> See City and District of St Albans v. Hunston Properties Limited and the Secretary of State for Communities and Local Government [2013] EWCA Civ. 1610.

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Plans are absent, silent or out-of-date. This means, in the case of South Gloucestershire, that should a planning application be subject to a s78 appeal, the assessment of housing land supply will be undertaken in the context of objectively assessed needs and not the out of date housing requirement as set by the Core Strategy.

- 1.1.6 The Gallagher Judgments<sup>3</sup>, build upon Hunston, outlining in no uncertain terms the requirement for local authorities to identify a full and unconstrained objectively assessed needs figure for the housing market area. Correctly identifying the OAN forms the first part of a two-staged process in defining the housing requirement that must be undertaken in the correct order. Significant importance is placed upon the figure found at the first stage of this assessment, due to implications for the second part of the exercise in potentially requiring the reconsideration of the weight to be applied towards the authority's constraints in meeting full identified housing needs and in defining the approach to the Duty to Cooperate.
- 1.1.7 The fundamental problem facing the Policies, Sites and Places Plan is that it seeks to implement an out-of-date strategy provided by the existing Core Strategy. Case law has established that the OAN will be used in section 78 appeals where Local Plans are absent, silent or out-of-date. This means, in the case of South Gloucestershire, that should a planning application be subject to a s78 appeal, the assessment of housing land supply will be undertaken in the context of objectively assessed needs and not the out of date housing requirement as set by the Core Strategy.
- 1.1.8 Whilst the Council is entitled to continue with the Policies, Sites and Places Plan, Gladman considers that in order to secure the effectiveness of the plan and maintain a plan-led system in South Gloucestershire, the Council should review the Core Strategy immediately. In fact, the Core Strategy Inspector took the pragmatic view that any delay in the adoption of the Core Strategy would not be warranted, even though it was based on housing evidence that was not Framework compliant, as long as the Council committed to an early review of the Core Strategy. At paragraph 86 of his report the Inspector stated:

*"I therefore consider South Gloucestershire should aim to adopt a replacement plan as soon as reasonably possible. I previously felt this should be done prior to 2021 but the timetable for the newly instigated SHMA process means this can and should be brought forward so that a review/replacement plan is in place by the end of 2018. This would allow the Council sufficient time to take into account the implications of the SHMA, to assess its housing land supply position and the success of the new neighbourhoods in meeting housing needs. In addition, it would enable the Council to re-examine strategic development options, including any adjustments which may be required to Green Belt boundaries".*

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<sup>3</sup> See Gallagher Homes Ltd and Lioncourt Homes Ltd vs Solihull Metropolitan Borough Council, [2014] EWHC 1283

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- 1.1.9 Additionally, the Council acknowledge that there is a shortfall in the current 5-year housing land supply position and it has been recognised by many Inspectors, that Local Plans cannot be found 'sound' if, upon adoption, a 5-year housing land supply cannot be demonstrated.
- 1.1.10 It is recognised that South Gloucestershire Council are involved in the preparation of the West of England Joint Spatial Plan (JSP) and that it is through this process, that strategic sites will be assessed and identified to be taken forward in the local plan reviews of the constituent authorities (Bristol City, Bath and North East Somerset, South Gloucestershire and North Somerset). However, the anticipated adoption date of this document (late 2018) is still some way off and as stated above, this is only the start of the allocation process.
- 1.1.11 Although the JSP, once adopted, will carry significant weight in the decision making process, it will be for the Local Plan reviews to respond to the strategic context of the JSP. It is hoped that these will be progressed alongside the JSP to avoid any significant delay between the adoption of the JSP and the Examination of the various Local Plan Reviews. However, care will need to be taken to ensure, that the Local Plan Reviews do not pre-empt the JSP and advance too quickly before the JSP has been tested and adopted.
- 1.1.12 Therefore, significant delay is associated with awaiting the outcome of the JSP process and the subsequent review of the South Gloucestershire Local Plan; a process which may not be completed until 2020. South Gloucestershire have a current shortfall in housing supply which needs to be addressed in the short term and cannot await the outcome of the protracted JSP process. The only option available to the Council therefore, is to ensure that the Policies, Sites and Places Plan allocates sufficient non-strategic housing sites to ensure that a 5-year housing land supply can be demonstrated both upon adoption and throughout the Plan period with sufficient flexibility to deal with any slippage in the delivery of the allocated sites.
- 1.1.13 Alternatively, flexibility could be introduced into the policies of the Plan (particularly PSP40 – Residential Development in the Countryside) to set out that the Council would consider applications for housing or employment development on sustainable sites outside the defined settlement boundaries, favourably.