

Examination of the Birmingham Development Plan 2031

Matter G – Spatial Delivery of Growth

Hearing Statement on behalf of St Modwen Developments Ltd

1.0 Introduction

- 1.1 These further submissions are made on behalf of St Modwen Developments in respect of Matter G of the Birmingham Development Plan (BDP) Examination concerning the spatial delivery of growth.
- 1.2 Their views point to the Plan being unsound by reasons of not being consistent with national policy, and not being justified, effective or positively prepared.
- 1.3 This is explained further below, structured around the Inspector's Matters and Questions (only those questions that are relevant to St Modwen's duly made objections to the Plan are addressed below).

2.0 Matter G: Spatial Delivery of Growth

1a) Do policies GA1 to GA4 and GA7 to GA10 provide sufficient detail and certainty over what will be permitted and where, within the areas that they cover?

- 2.1 St Modwen are the developers of the Longbridge site and detailed comments are set out in respect of Q18 concerning the BDP's policy and its relationship to policy for Longbridge already set out within the Longbridge Area Action Plan (AAP).
- 2.2 It is essential however as a Development Plan that the Plan provides some certainty in the spatial distribution of growth, setting out clear and precise policies which enable investment decisions to be made. This has to be balanced with some flexibility to ensure that delivery of development can respond to market signals which are always likely to fluctuate over the period of the plan. Our comments are put forward in this context.

1b) Is the proposed division between the role of these policies and the roles of any adopted and proposed Area Action Plans, Supplementary Planning Documents and Masterplans appropriate, and are their respective roles made sufficiently clear?

- 2.3 Our principal comments are set out in response to Q18 below however our concerns also speak to this question. It would normally be the case that the BDP would effectively be the "parent" document and other policies, AAP's or SPD would follow from its policy context. This is not the case in Birmingham as there are a number of AAP's and SPD which are effectively leading policy. This could be appropriate where they are up to date, consistent with the NPPF and the latest statute and consistent with a sound emerging new Development Plan for the city.
- 2.4 Fundamental problems arise where this is not the case. Problems also arise where some policy is provided within the BDP which either sets out an alternative approach

to the AAP or SPD, or partially seeks to amend. Equally of concern is where the BDP fails to grasp the opportunity to update the policy which has now become out of date or is now not appropriate to the current challenges the City faces or will conflict with new national policy or emerging policy for the city going forward.

- 2.5 This is the case at Longbridge. Longbridge has an adopted Area Action Plan but it was prepared some 8 years ago and adopted 5 years ago. It sought to respond to the closure of the former MG Rover plant in 2005 in a planning context where the UDP at that time, merely reflected the expected continuation of the site for automotive manufacturing. Such a policy context in the UDP was not conducive to its regeneration or reflective of this fundamental change in circumstances.
- 2.6 As such the AAP sought to bring together a new vision for the site and land use planning policies which would guide its future development. The AAP took some time to prepare, with its own evidence base and examination which eventually took place in the Autumn of 2008 and was adopted in April 2009, generally corresponding to the significant economic downturn. It was prepared of course, prior to the publication of the NPPF and more recent changes to planning statute including especially the new Community Infrastructure Levy Regulations.
- 2.7 The regeneration of the Longbridge site will continue over the BDP plan period. It will look to the BDP and the AAP as the Development Plan for the area and will also need to conform to SPD requirements. All contain policy which will affect the implementation of development on the site. All should present a consistent approach but currently do not. It is unclear which takes precedent. This is because policy was written at different times and for different purposes and in a different planning policy, economic, social and environmental time.

2) Is there evidence to show that the amounts of development sought by the Plan in each of the areas covered by these policies are justified and deliverable?

- 2.8 No, but this question raises a number of issues covered by St Modwen's wider representations. This includes their comments about the overall scale of both housing and employment provision within the City and also specific aspects of policy including for example the approach to Regional Investment sites which are dealt with elsewhere.

3) – 17) Inclusive

- 2.9 No comment on these questions.

18) Is it appropriate for policy GA10 to state that development will proceed in accordance with the adopted AAP, especially with regard to Longbridge's status as a Local Centre?

- 2.10 The appropriateness of Longbridge's status as a Local Centre is dealt with in detail in St Modwen's Hearing Statement on Matter K, "Centres, Retail and Tourism". The observations made there include that:
- In terms of the scale of development, the range of facilities, the associated turnover, and a comparison with other centres in the hierarchy Longbridge cannot sensibly be regarded as a "Local Centre", either in the context of

Birmingham or in the widely accepted meaning of the term. As a matter of practical reality Longbridge operates as a district centre.

- This role is set to be elevated further following the August 2014 grant of planning permission for the expansion of the centre, which allows the relocation of 4,200 sq m of previously permitted unit retail space, a new 500 sq m restaurant, multi-storey and surface level car parking, and a 14,000 sq m store to be occupied by Marks & Spencer (to be open by Christmas 2015).
- Beyond this, the centre of Longbridge has the capacity to accommodate additional development, creating further impetus to the regeneration of the area, helping to establish its status as a location for investment up to an international scale.

- 2.11 To illustrate these points reference is made to a plan showing the existing, permitted and proposed development at Longbridge; this is provided here at Appendix 1 for ease of reference.
- 2.12 This clearly shows that the manner in which the centre has been, and will continue to be, developed, takes it well beyond the AAP "Local Centre" status in terms of its comparison retail offer.
- 2.13 More generally, we have a fundamental concern about the approach set out within Policy GA10.
- 2.14 Policy GA10 relates to Longbridge. Longbridge is one of the largest brownfield regeneration projects in the country and presents a major opportunity to contribute significantly to the wide range of employment, housing and other needs of the City over the remainder of the Plan period.
- 2.15 Policy GD10, essentially cross-references to the policy of the Longbridge Area Action Plan suggesting that development will be brought forward in line with the AAP. However the AAP was adopted in 2009 and prepared against a different planning policy context to the emerging BDP. It was prepared against the requirements and need for new housing and growth of the former UDP and not the new significant need for housing within the BDP or the pressure for Green Belt site releases which are now needed within the BDP. The National Planning Policy Framework has established a fundamentally new approach to planning for sustainable development and this together with a number of new statutory provisions creates clear tensions with what could reasonably be considered to be now out of date policy in the AAP even in the relatively short time since the AAP was adopted.
- 2.16 The AAP should be consistent with Policy within the BDP and take its reference from it. It should also be consistent with the NPPF and latest statute. A review of the AAP to take into account the NPPF and the emerging context of the new BDP would result in significant changes to the AAP. Indeed if the AAP were written in the context of the current challenges which the City faces, including the significant growth in population, need for housing and economic growth given the significant economic recession, then the site offers a unique and major opportunity to contribute to the needs of the City going forward.

2.17 The BDP should not further endorse the AAP by referring to it in policy. It is not clear from the emerging BDP as to which policy proposals override AAP policy given that many inconsistencies arise including principally the following;

- The Policy suggests that Longbridge will deliver development in line with the AAP. It then also suggests, in over simplified terms, that this includes 1450 new homes, one Regional Investment Site, 13,500 sq.m. gross of comparison retail floorspace and 10,000 sq.m of office floorspace. The AAP extends to include significant land within Bromsgrove District and the proposals within the AAP cover this. Some of the above development was to be delivered in Bromsgrove. The proposals for the site in the AAP were premised on an understanding of the potential of the site during the height of the property market in 2006 and new and more up to date mastepanning, reflecting current market signals have varied the above. The quantum of development suggested in the Policy is neither consistent with the AAP and the AAP itself is not reflective of recent permissions on the site or the current market and expectations for delivery of development from the site.
- The Longbridge Infrastructure Tariff (LIT) is particularly relevant here as the BDP is intended to sit alongside a new CIL charge. The LIT does not conform to Community Infrastructure Levy (CIL) legislation and the approach to "tariff" charges – such Tariffs would not be CIL compliant; neither do many of the obligations set out within the AAP yet the Implementation Table in Policy GA10 suggest the AAP is CIL compliant – the LIT includes a range of mitigations which would not be compliant with today's statute. The relevant tests (NPPF paragraph 204 and as set out in statute) for any planning obligation include that it must be necessary to make the proposed development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the proposed development. Many of the aspects of LIT would need to be fundamentally reviewed in this context. Even if amended to be compliant it is unclear as to whether CIL would also apply to Longbridge over and above its local requirements in the AAP. The AAP and its viability was stringently tested within its evidence base. In order for the plan to be found sound, especially given significant challenges to delivery, specific flexibility was introduced. There is no evidence within the BDP to demonstrate that the implications of BDP cumulatively with AAP requirements are viable, including the cumulative implications of CIL.

The LIT has continued to place the regeneration of Longbridge at a significant competitive disadvantage to other parts of the City where no Tariff charge is in place, adding additional development costs to an already challenging development site.

- Development standards, including inconsistent policy in relation to affordable housing, sustainable building requirements, parking provision, etc. There are numerous aspects of the Longbridge AAP which are now inconsistent with the BDP – it is unclear as to which policy will apply when conflict occurs. If the Longbridge AAP policy is to apply and places more onerous requirements upon development proposals (or indeed merely different requirements) it is not clear or justified why a different policy applies to a spatial area such as Longbridge.
- BDP proposal map inconsistencies with the AAP. Some of these have been addressed in the modification process to reflect recent permissions however the

role of Plan 14, the Longbridge Spatial Plan is unclear. Neither the AAP proposals map nor the BDP map provide for a clear direction for the development of the Longbridge site. The AAP map is out of date and does not reflect more up to date masterplanning of the site and recent permissions. The BDP proposals map includes the identification of some areas of the site including the Regional Investment Site (RIS) and land retained by MR Motors UK Ltd, but these are inconsistent with the AAP and in any event neither are up to date.

- Policy for Regional Investment Sites is addressed extensively within St Modwen's representations, particularly in respect of Policy TP17. The principle of RIS, the proposals for a RIS at Longbridge and policy TP17 is not supported by St Modwen, principally because it places significant and unnecessary prescription on the range of employment and economic development allowed. That noted however, the policy for RIS within the BDP is not consistent with that within the AAP and there is no explanation as to the reason for change or in the case of the Longbridge RIS, whether it is policy within the AAP or the BDP which would apply.
- Reference is made within GA10 to the Longbridge site being designated an ITEC park, with this being "mainly" focused on the RIS. This is different to the AAP. An ITEC park is not defined within the plan, nor are the range of uses which it proposes explained. It is a proposals map which appears to have emerged from the Big City Plan but not through consultation on the BDP. St Modwen have not been consulted upon any such designation of the site, nor do they understand what such a designation fundamentally means in planning terms to the delivery of the development at Longbridge. There is no evidence base within the Plan which explains what the ITEC park is and why it is necessary at Longbridge.

- 2.18 The APP refers to the need to consider review within 5 years of adoption, and with considerable changes in its policy context, the BDP provides a suitable opportunity to include an appropriate new policy for Longbridge which would be consistent with the NPPF and new context of the BDP. The Council's response to our objections has suggested that it would not be appropriate for the BDP to prematurely pre-empt a review of the AAP, however it is the BDP which should be the "parent" document. The AAP was only ever put in place because a review of the UDP was some way off at the time when a new policy for Longbridge was needed.
- 2.19 There has been a number of aspects of the Longbridge regeneration proposals which have been highly successful and delivered broadly in line with the general provisions of the AAP. However, equally there have been a number of aspects of the development of the site which have been constrained by provisions set out in the plan and challenging economic circumstances, are not reflective of market needs and where more informed masterplanning of the area would now see the site developed in a different way. Taking these on board would be a stimulus to the reconsideration of policy for Longbridge within a broadly similar vision and still represent high quality sustainable development.
- 2.20 The BDP should acknowledge that policy within the AAP is out of date in a number of respects in need of review. Policy GA10 does not explain which aspects of the AAP are consistent with the BDP or national policy and which are not; neither does it explain how conflicts between policy will be resolved or justify why policy is different for Longbridge or why it departs from national policy. It should be re-written to establish

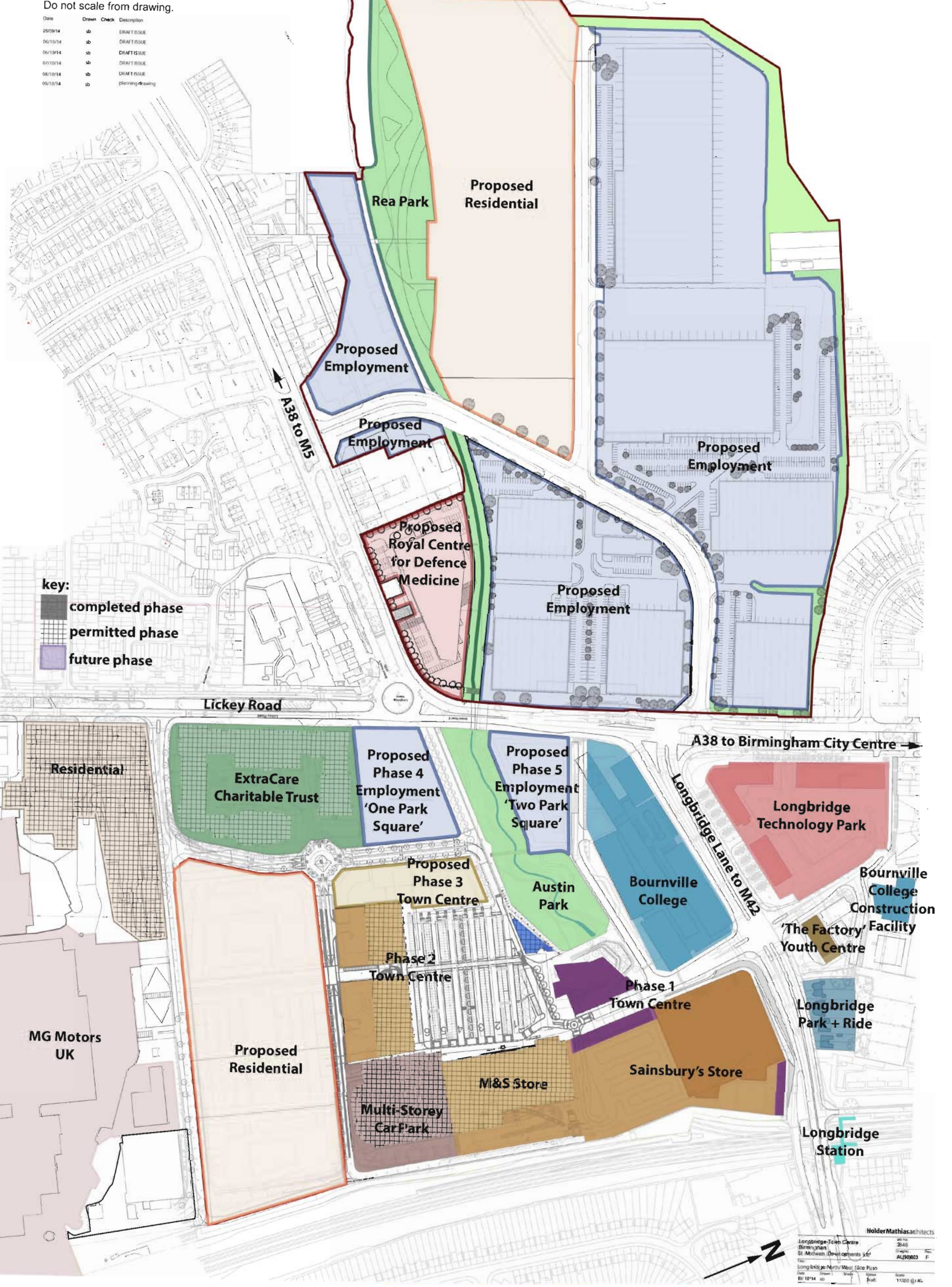
a new policy context for Longbridge and replace policy within the AAP to ensure that policy for Longbridge is both consistent with the NPPF and with the emerging BDP.

APPENDIX 1

Longbridge – Existing, Permitted and Proposed Centre Development

Do not scale from drawing.

Date	Drawn	Check	Description
25/09/14	sb		DRAFT ISSUE
06/10/14	sb		DRAFT ISSUE
06/10/14	sb		DRAFT ISSUE
07/10/14	sb		DRAFT ISSUE
08/10/14	sb		DRAFT ISSUE
09/10/14	sb		planning drawing



key:
 [Grid Pattern] completed phase
 [Light Blue] permitted phase
 [Light Purple] future phase