

Representations on the Bath and North East Somerset Local Plan (Core Strategy and Placemaking Plan) Partial Update Proposed Submission Draft Document (Regulation 19)

On behalf of Crest Nicholson and in relation to Hicks Gate

October 2021



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| **1** Introduction |

1. These representations are submitted on behalf of Crest Nicholson by Bristol-based planning, design and legal consultancy, Origin3.
2. Crest Nicholson controls land at Hicks Gate to the north of the A4 and west of the A4174 Bristol Ring Road. The land is in the administrative area of Bath and North East Council, and on the immediate periphery of the urban area of Bristol between Bristol and Bath. It is clearly of strategic significance. The company has been promoting the land for development, alongside partners to the south of the A4, through various rounds of plan-making in BANES and for the West of England for many years. It is almost inevitable that the land will be developed, and this should be through the means of a properly conceived and positively prepared development plan.
3. Land within the administrative area of Bristol City Council adjacent to the land under Crest Nicholson’s control is a reserve site within the adopted Bristol Core Strategy. Land at Hicks Gate was identified for development in the South West Regional Spatial Strategy submitted in 2006 which was found sound by the examining panel, before RSSs were abolished, and again in the draft West of England Joint Spatial Plan (JSP) submitted in 2017 but withdrawn in May 2020. It was proposed for development in early consultation versions of the Avon Structure Plan. The land has featured strongly whenever the strategic spatial planning of the greater Bristol and Bath area has been attempted, and with very good reason.
4. The inspector examining the adopted BANES Core Strategy in his report effectively signalled that Hicks Gate, the area at Bristol around the A4, is a most sustainable location in which to meet unmet need from Bristol, with the area’s designation as Green Belt the only obstacle to proper spatial planning.
5. BANES Council is currently consulting on a Partial Update of its Local Plan, and the process has reached the Regulation 19 stage. Our objection to the consultation is as fundamental as any we have ever submitted in response to a local planning authority’s consultation on an emerging local plan. Our objection is to the Council undertaking a Partial Review of its Local Plan that is not needed and when it should be addressing the needs of the area and its community, and meeting national legal and policy requirements, through the preparation of a new Local Plan. Instead the Council is mis-directing public and private resources, in an unnecessary exercise with no real purpose or value. We also suggest that the Plan as it is currently proposed is probably unsound.
6. It will be an interesting test of the examination process when a planning inspector is faced with the narrowly defined exercise of reviewing a plan that has no real content, but which should never have been submitted. The soundness tests that a plan should be ‘positively prepared’, be ‘justified’ or be ‘effective’ certainly could not be said to have been met, and the decision to divert the Council’s planning responsibility to this Partial Review could not be deemed to be reasonable and appropriate if it were that decision being examined rather than the document itself.
7. We would make a further point in introducing our concerns. The Council is consulting on the emerging Plan at the successive stages of its preparation. The publication of the Regulation 19 version of the Partial review demonstrates that this is a rather trite exercise as the Council has simply disregarded the previous consultation responses from Crest Nicholson and from many other parties who have with all of their experience of and professional commitment to proper planning, pointed to the lack of real purpose of the Council’s current plan-making exercise.
8. As noted, all that we have to say in the response to the consultation on the Partial Review, we have set out before, in our February 2021 response to the Regulation 18 consultation. For the sake of completeness and ease of assimilation, this consultation document repeats much of this material, adjusted where appropriate.
9. The rest of this consultation response to the BANES Local Plan Partial Update Regulation 19 consultation therefore deals with the following:
* Our analysis of the need for an immediate full review of the BANES Local Pan (section 2)
* Analysis of the Council’s projected housing supply shortfall; and a review of proposed housing sites (section 3)
* The need for a Green Belt review (section 4)
* Review of new policies and proposed amendments to existing development management policies (section 5)
* Conclusions (section 6).

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| **2** The need for a full review of the Local Plan |

Background

1. The most relevant development plan documents for BANES comprise:
* The BANES Core Strategy (strategic policies) – adopted in 2014
* The BANES Placemaking Plan (contains site allocations) – adopted 2017.
1. Work on the BANES Core Strategy began in 2007. BANES took 10 years to adopt its site allocations and development management policies in these two DPDs (2007 – 2017), a point of note in the consideration of the Council’s current approach to the need now for an up-to-date local plan which conforms to legislation and current national planning policy (as set out in the July 2021 NPPF - the Framework).

**The Framework - five yearly reviews**

1. Five yearly Local Plan reviews are a legislative requirement and further confirmation of this requirement is provided at para. 33 of the Framework. This requirement is presumably familiar to the Council, and certainly will be to a planning inspector. Given that the content of the 2017 Placemaking Plan is wholly determined by the strategic policies in the 2010 Core Strategy, the Council has already long failed to meet this requirement and on its current intentions will continue to do so for many years to come. The period set out in legislation and policy has already been exceeded by more than 100% and it looks likely that the period that has passed once a new local plan is finally adopted will be around three times the specified period. This is hardly consistent with the best use of spatial planning powers to make the positive contribution that can be made through spatial planning.

**BANES Local Plan Review**

1. The need to undertake an immediate, full review of the BANES Local Plan is simply irrefutable. We set out the case for a full review leading to a new Local Plan for BANES here, presented as three points.
2. **First**, the Core Strategy was never designed to have sufficient flexibility to deal with changing circumstances over the long term. The Core Strategy inspector found the Plan sound following the somewhat pragmatic approach by which PINS has seemed to operate in the interests of delivering housing, but only felt able to do so if there was to be early review of the Core Strategy, a wish expressed as a modification to Core Strategy Policy DW1.
3. The Core Strategy inspector foresaw that an early review would be required as he could see that a housing shortfall would arise towards the end of the BANES Core Strategy Plan period. As with almost all local plans that were adopted with the expectation of an early review, this has not happened in the way the inspector envisaged (and as the Council agreed at the time), raising an interesting question of whether the finding of soundness of the Core Strategy is actually invalidated in principle.
4. Given the time that has elapsed, all else that has changed in the meantime, and with the other points we make below, the Council cannot argue with any credibility that its current approach satisfies the agreement made in 2014 and in some way replaces the overriding requirement from legislation and policy for a full review of its Core Strategy and to put in place a new Local Plan. Once this current process has been completed, whenever that is, the Council will still only have a plan with a time horizon of 2029, seven years at most from adoption, and in marked contrast with the statement at para. 22 of the Framework that says that for local plans:

*‘Strategic policies should look ahead over a minimum 15-year period from adoption, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. Where larger scale developments such as new settlements or significant extensions to existing villages and towns form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery.’*

1. BANES recognised the need for an early review of the Core Strategy and over the period 2016 – 2019 it is understood to have worked on a full Local Plan review alongside the preparation of the JSP. In 2016, BANES published a Core Strategy Review 2016-36 Commencement Document. This stated (paras. 2 and 3):

*‘The review of the B&NES Core Strategy is being undertaken alongside the other authorities in the West of England through a new development plan document, the Joint Spatial Plan (JSP) which will cover all four UA areas. This will provide a new strategic planning context for B&NES to 2036.*

*The production of the JSP requires work to progress in parallel on reviewing the Core Strategy, in order to ensure that an updated local policy context, including site allocations, is brought forward at the earliest possible opportunity to meet the new development needs to 2036. This will mean that review of the Core Strategy will commence before the Placemaking Plan is adopted. This is considered necessary in order to establish a plan for meeting the development requirements set out in the JSP and to help provide certainty in relation to the longer term of supply of additional housing and economic development’*

1. BANES recognised the need to review the housing requirement early, and to align its full Core Strategy review with the JSP in order to provide certainty in the longer-term supply of housing and economic development.
2. This thinking was right then, and the principle remains the same. The Council will perhaps seek to justify its departure from its previous commitment in terms of the delay to the establishment of the strategic planning context for the West of England, or that part at least of the West of England that is covered by the three Combined Authority local authorities. To do so would be a little disingenuous as BANES was party to the work on the JSP, which was withdrawn in 2020, but only after many years of work during which the responsible authorities were told by knowledgeable commentators (and led to expect by PINS) that the JSP would be found unsound.
3. By continuing in face of these predictions, the planning authorities didn’t use the excellent opportunity that had been created to put in place the much-needed strategic spatial strategy for the acknowledged functional economic and housing market area of the West of England, as well as allowing many years to go by at the cost of a huge level of public and private resources.
4. Instead of its current approach, including this consultation, BANES should be proceeding alongside and in the same way as the other WECA planning authorities, working in parallel on its new Local Plan and on the proposed WECA Spatial Development Strategy. A full immediate review is required that aligns the preparation stages of both the joint strategic SDS and the district Local Plan to ensure the timely delivery of the strategic policies, including strategic and non-strategic growth areas, as well as any updates to development management policies.
5. The simultaneous preparation of a strategic SDS and a new district Local Plan is the approach that is being taken by Bristol and South Gloucestershire Councils as the optimum solution. BANES’ circumstances are identical and therefore the Council should also focus its resources on a full, immediate Local Plan review. Whilst not party to the WECA SDS, North Somerset Council is understood to be aligning its new Local Plan preparation with the SDS in order to try to satisfy the Duty to Cooperate, as it must. All of the other West of England authorities faced with the same cross boundary issues to deliver the one or two HMAs’ housing needs aim to adopt their new Local Plans in 2023 (or shortly after the SDS is adopted should the SDS be further delayed).
6. **Second**, there is a housing situation that needs to be addressed, which by its current approach BANES is simply ignoring. Since the Core Strategy was adopted the Standard Method 2 increases the housing requirement across the WECA area significantly.
7. The four adopted West of England Core Strategies combined made provision for 92,940 dwellings over their respective 20 year plan periods. This compares with the provision that was to be made across the four LPA areas through the JSP - a total of 105,500 dwellings for the period 2016-36. The need according to the Standard Method 2 has now risen to 132,400 dwellings for the four West of England authorities over a 20 year plan period. This is a huge change in circumstances across the West of England area which BANES has to address in its own plan, and which it has a legal duty to address according to the evidence, through co-working in the SDS with Bristol and South Gloucestershire Councils, and through cooperation in the case of North Somerset Council.
8. Para 33 of the Framework says that:

‘*Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly.’*

1. BANES is a constituent authority of the WECA, and has joint responsibility for addressing the identified housing need by making sufficient provision for house building in an up-to-date plan.
2. Housing affordability is a major problem in BANES and one which is worsening every year when not addressed. At 2020 the ratio of property prices to earnings was 10.7, significantly higher than the national average.[[1]](#footnote-1) The Council needs to be addressing the long-term supply of housing through planning to increase the supply of new open market housing as well as providing affordable housing through mixed tenure developments.
3. The **third** reason why what the Council is doing is no substitute for proper planning in the form of a full review leading to the adoption of an up-to-date Local Plan addressing the required plan period, is that what is submitted willneed to pass the tests of soundness set out in the Framework.
4. The draft Local Plan appears likely to fail the tests of soundness from the Framework (para. 35), most notably the requirements that it be:
* Positively prepared, seeking to meet the area’s objectively assessed needs – the draft Plan is not an up-to-date response to current and foreseeable circumstances; and it does not try to meet the identified needs of the area according to the present evidence; this approach is quite the opposite of ‘positive’
* Justified, based on proportionate evidence - there is no justification in evidence or in principle for the Council’s approach to plan-making demonstrated by this Plan, and there are parts of the Partial Update that are notably uninformed by evidence as they should have been; we discuss Green Belt change as a clear example later in these representations
* Effective, based on effective joint working on cross-boundary strategic issues that have been dealt with rather than deferred; cross boundary thinking has not contributed to anything that appears in the draft LPPU, and work on the Partial Update is preventing work taking place on a proper plan for the district, an action that can hardly be described as ‘effective’
* Consistent with national policy, enabling the delivery of sustainable development in accordance with policies in the Framework – by presenting this plan the Council is at odds with the objective of plan-making of promoting sustainable development, and avoiding taking the vital role that spatial planning can and should take in contributing to the arrest of climate change.
1. The Partial Review looks quite likely to fail the test of soundness. In common terminology it is simply not fit for purpose, or is fit only for the wrong purpose.

**Plan making timescales**

1. The diagram below is taken from the 2016 BANES Core Strategy Review Commencement Document and shows how the JSP and Core Strategy Review processes were intertwined so that the new Local Plan document would be adopted soon after the JSP’s adoption.



1. The important point to note from the diagram is that regulation 18 and 19 stages of the Core Strategy Review would have been almost complete at the point the JSP was submitted for Examination. The 2020 BANES LDS does not provide a comprehensive timetable for each of the key stages of the new Local Plan, although it is suggested that work on the new Local Plan will only start early in 2022 when the Council anticipates that the Partial Update Examination will be complete. If it takes three to four years to prepare and adopt the new Local Plan (and that is optimistic), we estimate it is likely to be at least 2025-26 until the new Local Plan is adopted. It follows that if the Partial Update is delayed, this will knock onto the new Local Plan timetable which could push it into 2027 or beyond. The key point here is that strategic sites that will be needed as part of the provision mix take some time to come on stream and adopting the new Local Plan so late on and almost at the point when the Core Strategy expires will inevitably create future problems in terms of land supply.
2. The table and line graph below are taken from the BANES Land Supply Trajectory 2020[[2]](#footnote-2) which shows this precise point. The Core Strategy was adopted in 2014 and it wasn’t until 2018/19 – 2019/20 that the Council achieved a more comfortable surplus on the Core Strategy requirement – before that it was consistently behind the cumulative requirement by a considerable margin. To cut things so fine both in meeting requirements but not providing sufficient flexibility, and then in not keeping the long term strategy up-to-date and capable of implementation, will create problems for land supply which could take many years to get back on track. In this case, the Partial Update only deals with provision to 2029. If the new Local Plan does not materialise until 2027 or later, BANES could encounter a similar housing supply shortfall problem in the early 2030s as it can take many years for allocations to generate completions.





1. We summarise three key points on housing supply in relation to the choice that BANES is taking with its plan making.
2. Firstly, the evidence above shows it was always the intention that the housing requirement and strategy for BANES would be addressed as part of an immediate review of the Core Strategy and seven years on, that still has not been progressed. Since the JSP was withdrawn, the need for cross boundary working has intensified as a result of Standard Method 2. The strategic decisions about the distribution of housing across the WECA authorities will be made through the WECA SDS and BANES will need to channel resources into the SDS process. This will be demanding, particularly in light of the only published SDS programme which envisages adoption in just over two years time. Trying to do so at the same time as pursuing a Local Plan Partial Update is likely to interfere with the strategic planning that is so vitally needed and already overdue.
3. Secondly, the two development plan processes – the SDS and the new Local Plan – need to be undertaken in parallel so that the SDS can be implemented in a timely fashion and provide certainty for the longer term supply of additional housing and economic development. That was the way BANES originally envisaged and agreed would be the case. This remains the right arrangement now and the case for a parallel approach becomes stronger every day. This is emphasised by the fact that each of the other three West of England authorities is embarking on a full Local Plan Review now.
4. The BANES Local Development Scheme does not set out a full programme for the new Local Plan as the Council do not envisage that it will start until the Partial Update has been examined – until at least spring 2022. This is presumably due to the difficulties of working on the SDS, Partial Update and new Local Plan all at the same time – our point exactly. The Partial Update is very far from being the most effective use of limited resources.
5. Thirdly, BANES needs to embark on the new Local Plan now because of the time it will take. It took seven years to adopt its Core Strategy and 10 years to have a complete Local Plan with site allocations in place. If the new Local Plan is not adopted until 2027 or beyond, this will create problems as its strategic policies will need to look forward 15 years from adoption (ie to beyond 2042) whilst the SDS is looking to the time period 2041 – this could create evidence gaps between the two plans that would be difficult to reconcile.
6. If the new Local Plan is adopted in 2027 for instance, that will be six years into the SDS time period 2021 - 2041) and if the housing requirement in BANES is higher than the provision being made, this will create a higher annual requirement over a shorter remaining timeframe, creating further housing land supply issues in 2030/31 onwards.

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| **3** Addressing Housing Supply |

1. The Regulation 19 consultation document examines the BANES housing supply shortfall, reviews existing allocations, and identifies new opportunities to attempt to increase future supply.

**Housing supply**

1. Of the 13,000 dwelling requirement in the Core Strategy, the Topic Paper on Housing Supply (August 2021) states that 8,150 dwellings have been built between 2011 and 2021 (para 1.5) and the remaining requirement is 4,850 dwellings. The Council calculates a future supply of 4,671 dwellings within the remainder of the plan period to 2021–2029, which leaves a shortfall of 200 dwellings against the Core Strategy requirement (Housing Topic Paper, para 2.15). We have not sought to interrogate the projected housing supply figures for the purposes of these representations, so cannot comment on their accuracy. We have used the Council’s findings to illustrate our key points below.
2. In para 2.14 of the Housing Topic Paper, the Council states:

*‘Given that in the future both the Housing Delivery Test (HDT) will be failed and a five-year housing land supply is diminishing corrective action is needed. As such it is proposed through the partial update to identify and allocate additional sites to replenish housing supply’.*

1. HDT compares completions over the preceding three years against the three-year housing requirement. It does not take into account over or under supply outside of that three-year period.
2. The Council cites the potential future HDT shortfall approach as one of the (very few) reasons for needing to partially review the plan. However, we consider this to be a crude approach when a finer grained analysis is required. HDT is not about individual years supply, but three year periods of supply grouped together and compared with the three year requirement – that is, a local planning authority will not be penalised if there is a shortfall in one year alone – it is about its performance over three years combined. We illustrate this using the Council’s trajectory dated March 2021[[3]](#footnote-3) (in reality HDT will be measured using completions data, but as this involves future years we have used the Council’s Housing Trajectory to illustrate the point) – see BANES projected HDT position 2021 – 2026 in the table below[[4]](#footnote-4).

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|  | **A. 3 year Requirement** (676 x 3) | **B. 3 year supply** (Completions and/or trajectory) | **C. Difference** (C = B-A) | **D. Predicted HDT result**(D =B/A x100%) |
| **Predicted HDT 2022****(years 2019/20; 2020/21; 2021/22)** | 2,028 | 2,617(made up of 1163 + 764 completions, plus 690 trajectory) | +589 | **129%** |
| **Predicted HDT 2023****(years 2020/21; 2021/22; 2022/23)** | 2,028 | 2,093(made up of 764 completions, plus 690 + 639 trajectory) | +65 | **103%** |
| **Predicted HDT 2024****(years 2021/22; 2022/23; 2023/24)** | 2,028 | 2,121(Made up of 690 + 639 + 792 all from trajectory) | +93 | **105%** |
| **Predicted HDT 2025****(years 2022/23; 2023/24; 2024/25)** | 2,028 | 2,331(Made up of 639 + 792 + 900 all from trajectory) | +303 | **115%** |
| **Predicted HDT 2026****(years 2023/24; 2024/25; 2025/26)** | 2,028 | 2,399(Made up of 792 + 900 + 707 all from trajectory) | +371 | **118%** |

1. Incidentally HDT calculations can include an allowance for Purpose Built Student Accommodation (PBSA) which in BANES is quite a significant proportion of the envisaged overall housing delivery. In reality, once PBSA is added in, HDT will be higher even than that estimated in the table above.
2. This analysis shows that if BANES housing land supply predictions are realistic and accurate, HDT will not be a problem for BANES that has to be addressed through the Partial Update as it claims. The Council actually has sufficient time to prepare and adopt a new Local Plan, dealing with all of the issues that really do need to be addressed as soon as possible.
3. Notwithstanding the point above, we agree that BANES will experience housing land supply issues towards the end of Core Strategy plan period, but the right solution is to update the housing numbers and overall spatial strategy now, dealing with short (to 2029) and long term (2030+) land supply issues together. This requires turning to the new Local Plan alongside the SDS right away, rather than waiting until the Partial Update is complete, creating longer term supply problems (beyond 2030) which would be catastrophic for sustainable housing delivery.

**Proposed housing sites**

1. We note that with the exception of the safeguarded land at East Keynsham, all of the new and amended housing allocations proposed in the Partial Update are capable of delivery without the Partial Update as they are within the urban area and matters can be resolved through planning applications, by reference to extant policies in the Core Strategy and the Placemaking Plan. This is the proper role of the development management process.
2. The table below provides an assessment of each housing allocation proposed in the Partial Update.

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| **Site name** | **Additional housing capacity / proposals** | **Our response** |
| Bath |
| Policy SB7 Green Park West and Sydenham Park | 250 dwellings | This is a brownfield site, already allocated in the Placemaking Plan. According to the asterisk on page 11 of the Housing Supply Topic Paper, the allocation policy SB7 is not to be amended in the Local Plan Partial Update. It is simply included in the Partial Update consultation as it wasn’t previously allowed for in the housing trajectory. It is now considered it will deliverr 250 dwellings. Therefore, a Partial Review is not needed to address this point – this site can come forward under current policy. |
| Policy SB8 Western Riverside | 250 dwellingsThis policy amendment increases the capacity of the site by 250 dwellings and also intends to update policy guidance on design.  | As an existing allocated brownfield site, the uplift in density is not dependent on the policy amendment for delivery but could come forward as part of pre-application and planning application discussions and negotiations, and also design aspirations could be agreed collaboratively in an update to the SPD which the Council acknowledge needs doing. None of the proposals are dependent on the Partial Update to happen. Specific matters that do require development plan status could be incorporated in the new Local Plan in any event. |
| Policy SB14 Twerton Park | 80 dwellingsThis policy identifies capacity for 80 dwellings as part of the redevelopment of the football ground, and also intends to update policy guidance on design.  | This is an existing brownfield allocation, where the Council intend to update the planning policy guidance. Whilst there is a recent refusal, the Council consider the site is suitable for 80 dwellings and this could be delivered via the submission of a new application. A Partial Update is not essential to delivery.  |
| Policy SB18 RUH | 50 dwellingsRedevelopment of hospital accommodation estimated to deliver a net gain of 50 dwellings | Existing Placemaking Plan allocation. Redevelopment of the site is not dependent on the proposed amendments to policy for delivery and could come forward as an application, in dialogue with the Council. Aspects that do require development plan status could be incorporated into the new local plan. |
| Sion Hill, Bath (Policy SB25) | 50 dwellingsBrownfield  | Redevelopment of the site is not dependent on development plan policy for delivery and could come forward as an application, in dialogue with the Council. |
| St Martin’s Hospital, Bath (Policy SB25) | 50 dwellingsBrownfield | Redevelopment of the site is not dependent on development plan policy for delivery and could come forward as an application, in dialogue with the Council. |
| Keynsham |
| Fire Station (Policy KE2b) | 20 dwellingsMixed use redevelopment of brownfield allocation -subject of recent application in 2019, since withdrawn. | Existing allocation in Placemaking Plan. Delivery is not dependent on the Partial Update and a suitable scheme can be negotiated through a new planning application. |
| Treetops Nursing Home | 30 dwellingsRedevelopment of care home site  | This does not need to be allocated to make it deliverable and will happen through the planning application process.  |
| Safeguarded Land (policy KE3c, KE3d) | 280 dwellingsLand was taken out of the Green Belt in the Core Strategy and designated as safeguarded land for housing at East Keynsham | The Partial Review aims to allocate 2 x safeguarded sites for 300 dwellings. However, the sites cannot be delivered until substantial improvements are made to existing transport infrastructure in the town, which the Council is investigating. One of the options the Council is considering is removing the whole of the North Keynsham site (1500 dwellings) out of the Green Belt to facilitate the development of the 300 dwellings East Keynsham sites, to assist in the delivery of the necessary transport improvements. |
| Westfield |
| Silver Street, Midsomer Norton (Policy SSV21) | 10 dwellingsGreenfield  | Page 216 of the Schedule of Changes states the surrounding area now has permission to become housing and a school. The Council see the site as being part of the existing built up area, therefore, the site does not need to be allocated, and can be approved as a small infill site. |
| Former Paulton Printing Works, Paulton (Policy SSV22) | 80 dwellings.Existing BANES Local Plan (2007) allocation | Existing brownfield allocation. Redevelopment of the site is not dependent on the proposed amendment s to policy for delivery and could come forward as an application, in dialogue with the Council. |
| Total  | 1,200 dwellings |  |

1. We look at the particular issues raised by the allocation of the land at East Keynsham in the next section of these representations.

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| **4** Green Belt  |

**Green Belt changes**

1. BANES describes the need to address housing land supply constraints as a main reason for undertaking the Partial Update, and safeguarded land at East Keynsham is one of the sites to be allocated in an attempt to address the envisaged supply shortfall.
2. However, it would appear that the safeguarded land at East Keynsham is not deliverable on its own as it will require transport improvements that may require additional land to be taken out of the Green Belt. This was stated in the Regulation 18 consultation document where it was said that if the safeguarded land at Keynsham is not deliverable without interventions:

*‘the Council will need to carefully consider alternative solutions, including greenfield sites to the south of the District and outside the Green Belt, if these are demonstrated to be sufficiently sustainable, as well as smaller, non-strategic greenfield sites on the edge of Bath within the Green Belt.’*

1. The tests of a local plan indicate that a site should not be included in a plan to provide housing if it is not demonstrably deliverable within the envisaged timeframe, which in this case and by the Council’s own reasoning, has to be short.
2. Whilst we recognise Keynsham is a relatively sustainable location for growth, we disagree that its more sustainable than say land within BANES on the edge of Bristol, such as at Hicks Gate, where there are excellent public transport links, where further mass transit improvements are envisaged, and with sustainable access to the greatest range of jobs, education and high and low order services in the South West.
3. The BANES Climate Emergency Progress Report (Oct 2019) has *‘a major shift to mass transport, walking and cycling to reduce transport emissions’* as one of three immediate priorities it is pursuing to reduce its carbon footprint. The Hicks Gate site is next to an existing Park and Ride with rapid bus transport into the centre of Bristol, and it is also on the Bristol-Bath A4 corridor which is identified for mass transit improvements that will provide high quality links to other parts of Bristol, as well as to Bath, and to locations between the two cities.
4. Meeting strategic housing needs in the most sustainable locations is an essential role of spatial planning that plan-makers have to embrace fully. Any persistence of the prioritisation of Green Belt protection in isolation and over the promotion of the most sustainable locations is at odds with a proper reading of national planning policy, and a modern interpretation of national policy and case law is increasingly being reflected in the findings of planning inspectors.
5. The Partial Update approach means that the Plan’s ability to address climate change issues is limited by the nature of it being partial, by having to fit within an existing strategy that began life well over 10 years ago in a different context, and by looking only a very short distance ahead. That said, the Partial update is intended as a statutory plan, and it is not exempt from the legal and policy tests that apply to any local plan. A fundamental review of the whole spatial strategy for BANES is required to ensure a sustainable long term strategy can be put in place that deals with the immediate and the long term, and reflects the necessary lead in times for strategic sites such as Hicks Gate to deliver development in the most sustainable locations with the greatest benefits for climate change.
6. Framework policy on Green Belts means that what the Council is seeking to do by moving land that is ‘safeguarded’ by previous policy to an allocation is not the straightforward task that it seeks to suggest, and one that cannot be undertaken as an isolated task. In order to meet Framework Green Belt policy, before allocating safeguarded land and finalising changes to Green Belt boundaries, the Council will need to demonstrate that all of the relevant tests have been met including all of the tests set out at para. 142 of the Framework.
7. The Council in its Partial Update also has to have proper regard to the need to look beyond the (very limited) Plan period when it is inevitable that the Green Belt boundary will have to change, and do so by identifying further safeguarded land, in order to comply with para. 143 of the Framework. By not complying with this requirement from national planning policy, the Partial Update means that the resulting Plan cannot be found sound.
8. Para. 140 of the Framework requires changes to Green Belt boundaries to have a degree of permanence in so far as Green Belt boundaries will not need to be altered at the end of the plan period. Given the WECA cross boundary working that is underway in preparing the SDS, it is almost inevitable that exceptional circumstances will arise through that process and that additional land will need to be removed from the Green Belt in BANES within a year or two of the Partial Update.
9. The Council’s proposal cannot be fully justified and be seen to be sound without BANES having undertaking a full Green Belt Review, which would include an assessment of other potentially sustainable locations in the Green Belt (such as at Hicks Gate), and require joint working with other local authorities that share the strategic issues of housing need and the Bristol-Bath Green Belt.
10. Whenever the process is followed correctly this will be a significant task, likely to take a considerable time within any plan-preparation process, and this again adds weight to the desirability of moving straight to a new Local Plan, prepared in parallel with the SDS.
11. On the issue of removing land from the Green Belt in BANES, the Inspector examining the Core Strategy concluded the following:

*Land supply is tight in the latter part of the plan period. There are no obvious additional major brownfield sites to come forward in the long term and so it is almost certain that some further greenfield land will be required for housing towards the end of the plan period and beyond. (Such land may also, of course, be required sooner depending on the outcome of the new joint SHMA.) The most sustainable locations within B&NES (as reflected in the planned strategy) are adjoining Bath, closest to the A4 in Keynsham and parts of south-east Bristol, which are all protected by Green Belt’.*

1. This shows that his assessment led the inspector to conclude that South East Bristol is an important sustainable location for development and one which will be able to play a significant role in a sustainable strategy for BANES. The geography has not changed in the meantime and this finding will need to be reflected in any comprehensive Green Belt review and in the spatial strategy to follow.
2. If the inspector examining the Partial Update is consistent in his or her thinking with the inspector examining the Core Strategy, and with regard to the Framework, there is further reason here to suggest that the Partial Update could not be found sound.

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| 1. Development Management Policies
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1. The BANES Partial Update Regulation 19 consultation proposes to alter a considerable proportion of the development management policies covering the following:
* The Council’s declaration of climate and ecological emergencies, including those policies on renewable energy generation, retrofitting, sustainable construction and biodiversity net gain
* Transport and travel policies including reviewing the parking standards
* The approach to Houses in Multiple Occupation (HMOs), student accommodation, development on the University campuses
* The district’s housing land supply and type available to meet the Housing Requirement to 2029
* The supply of employment land in light of green recovery objectives
* The role of city and town centres in the context of the effect of ongoing changes
* The review of some existing allocated development sites
* The efficient and effective use of the Bath Park & Ride sites.
1. The Schedule of Changes and the Composite Documents comprising the Partial Update consultation set out the proposed changes to the development management policies. Most of the proposed changes appear to be relatively small, with the changes unlikely to have much consequence in practice. Even those changes the Council claims are vital in terms of addressing the climate emergency will be covered in forthcoming changes to Building Regulations, PRS Regulations and the enactment of the Environment Bill, so we question the need to devote resources to reviewing them in Local Plan Partial Update. Such matters that really should be the stuff of spatial planning should be addressed on a consistent, strategic, basis by the SDS
2. Our analysis of the policies that need other than these general comments is set out in the table below.

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| Policy | Summary of Changes | Our response |
| Sustainable construction policies SCR1 and CP2 residential and non-residential, replacing Policies SCR1, CP2 and noting that Policy CP1 is to be replaced by the new ‘Energy efficiency Retrofitting and Sustainable Construction SPD’.  | Changes proposed to BANES existing policy to achieve zero carbon new build dwellings | BANES claim their existing SCR1 and CR2 policies achieve a minimum 19% reduction in CO2 emissions on 2013 Part L Regulations.We question why this policy change is necessary as national interim uplift in the form of revised Part L Regulations will achieve a 31% reduction in carbon emissions on the 2013 Regulations and will come into force in June 2022.Also, the Future Homes Standard (FHS) to achieve zero carbon ready homes will come into force in 2025.Therefore, changes to building regulations will address the issue of zero carbon ready homes in a timeframe that allows the building industry time to prepare for the significant change and BANES does not need to prepare a Partial Update to address this. If BANES were to pursue any additional energy efficiency requirements on top of building regulations, this could be dealt with as part of a new Local Plan.The Future Buildings Standard proposes a change to building regulations to achieve zero carbon ready non-domestic buildings by 2025. The Government is also consulting on improving the energy performance of privately rented homes (which will include HMOs) to raise the minimum energy efficiency standards to EPC C to apply to new tenancies from April 2025 and all tenancies from 2028. |
| New Policy SCR8Embodied carbon assessment  | The policy requires a carbon assessment of large new-build developments when they are proposed | The Partial Update document suggests the West of England Authorities are exploring the possibility of introducing Whole Life Cycle Carbon Assessments as part of future policy and therefore, this does not need to be in the Partial Update in the absence of a fully evidenced, practicable West of England wide policy. |
| New Policy SCR9Electric vehicles charging infrastructure  | The proposed new policy sets out requirements for the provision of electric charging points for residential and non-residential developments | The Government will be making changes to building regulations to require the provision of charging points for residential and non-residential developments and therefore, this policy is not required.  |

1. We reach a similar conclusion on the proposed changes to three of the ecology policies, two of which involve minor changes, whilst the third which has the potential to have a much greater impact on outcomes is the biodiversity net gain policy. However, as the policy justification correctly states, the Environment Bill once it becomes law will introduce a 10% mandatory requirement for biodiversity net gain within development, and we therefore question what the Partial Update is actually adding here. The Council does state that it is considering a 15% biodiversity net gain requirement, but this appears arbitrary and BANES would need to justify why they would pursue a more stringent requirement than the national position. We also note that the Framework already advocates a net gain requirement for biodiversity.
2. The Council appears to present the need for an immediate Partial Update as opposed to a full plan review as arising from an urgent need to address the climate and ecological emergency. However, these matters are all in train at a national level in terms of future changes to legislation. Whilst the Partial Update claims the benefit will come from getting local policy in place sooner than national changes, in reality, that may only amount to around one or two years, affecting very little development even if effective.
3. In any event, the programme for bringing into effect the changes to buildings regulation and PRS regulations to improve the energy efficiency of building is timed to give the development industry and the housing sector time to adapt and plan for these more stringent requirements. During Examination of the Partial Update, the same issue may arise – ie to be sound, the polices may need to be phased in with a transition period and standards increased over time. If so, the Partial Update would not then actually add any benefit as it will be overtaken by changes to building regulations.
4. We feel the other proposed changes to DM policies are even less significant and all of the development management policies can be far better addressed as part of a new Local Plan in the context of the SDS, and if really justified.

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| **6** Conclusions |

1. The WECA area has been without a strategic plan since RPG10 was adopted in 2001, 20 years ago. This is a woeful gap in an area where the need for strategic decision-making through a spatial strategy is clearly evident. The heightening awareness of the now-critical need to address climate change and for spatial planning to play its part has only increased the significance of the absence of proper planning, even if the need to address the housing, economic and infrastructure needs of the area and its communities was not reason enough.
2. Having being part of missing the previous excellent opportunity for the whole of the West of England, the WECA authorities have signed up to jointly preparing a much-needed strategic plan in the form of the SDS. This has always been intended to be prepared through dialogue with all of the participating and called-upon authorities and stakeholders, and in parallel with the preparation of the district local plans that under the adopted though inefficient two-level arrangements, will be necessary for the implementation of the SDS and the delivery of development and infrastructure. When the process began the plan-preparation timetables were synchronised.
3. BANES is the only WECA or West of England authority pursuing a Partial Update of its Core Strategy and Placemaking Plan. All of the other West of England authorities will be preparing a new Local Plan for their districts, timed to closely follow the SDS programme, with adoption soon after adoption of the SDS, and this is as it should be. It is the same local planning authorities preparing the SDS as are preparing the individual district local plans, so this arrangement should not be that difficult to follow.
4. Our view, as set out in this and previous consultation responses, is not only that a Partial Update is wholly unnecessary, and at odds with current national plan-making arrangements, expectations and policy, but that this work and its intended product will divert resources and attention from the preparation of the SDS, undermine the effectiveness of the SDS when it is prepared, and delay the preparation of the BANES Local Plan that will be necessary to implement parts of the SDS.
5. By any test of proper planning, including policies enshrined in the Framework and not least the tests of soundness, such will and resources available at BANES would be far better spent on a new Local Plan which addressed the appropriate plan period. This could easily incorporate the proposals in the Partial Update, as well as doing the bigger job urgently required. Critically and as noted, this work should be carried out alongside and in full knowledge of the emerging SDS, and be ready to be submitted following adoption of the SDS, or preferably very soon after the SDS is submitted, with appropriate arrangements in place for the coordinated examination of both of the plans and those prepared by the other WECA and West of England authorities.
6. Finally, and with all of these disadvantages of the Council’s approach, there is nothing that needs urgently addressing that justifies trying to go ahead now with a Partial Update rather than a proper plan for BANES addressing the full plan period required by the Framework and prepared in parallel with the SDS.
7. What the Council offers on this point is that there is a need to extend the housing provision from that made in the Core Strategy, and that some of the development management policies need some variation. These two points have been considered in these representations and our conclusions are here.
8. The Council cites an urgent need to address the climate and ecological emergency. These matters as far as they can be addressed through spatial planning are already provided for at a national level in the overriding context of the Framework as well as in changes to Building Regulations, PRS Regulations and the Environment Bill. Moreover the most important contribution of spatial planning to countering climate change is in the location and form of new development through strategic and district wide spatial strategies, and this is exactly what BANES is not doing by its current approach.
9. In terms of the real consequences and effectiveness of the proposed changes to the development management policies these changes amount to little more than tinkering and even if deemed necessary could be better made through a comprehensive and fully coherent new Local Plan.
10. The housing land supply in the West of England and BANES certainly needs to be addressed, placing great importance on the preparation of the SDS and the district local plans, but this situation is not being addressed by the Partial Update; quite the contrary. The Council seeks to justify its choice of the Partial Update by reference to the Housing Delivery Test. However, if BANES’ housing trajectory is realistic and accurate, HDT will not be a problem for BANES at least until the end of 2025, which gives sufficient time to prepare and adopt a new Local Plan if this work was got under way in a timely fashion.
11. By delaying the new Local Plan, the Partial Update could create longer-term supply problems (ie beyond 2030) and this would be catastrophic for sustainable housing delivery and affordability.
12. With the exception of the safeguarded land at East Keynsham, all of the new and amended housing allocations proposed in the Partial Update are capable of delivery without the Partial Update.
13. The allocation of the land at East Keynsham raises the issue of changes to the Green Belt and the confirmation in the LPPU of changes to its boundary. The approach taken by Council in its Partial Update is simply wrong given the nature of the Plan and its preparation process, questioning the soundness of the Plan. The approach is at least a mis-application of the provision in the Framework for the status and future consideration of safeguarded land. If the Council believes that changes have to be made to Green Belt boundaries and be confirmed by the LPPU, and land allocated to deliver housing, national policy and established practice demonstrates that ‘exceptional circumstances’ cannot be said to exist for a pre-selected site without there having been a full and properly undertaken assessment of the whole Green Belt. Were this done, and the outputs combined with the requirement for plans to promote sustainable development as legislation and the Framework require, Crest Nicholson’s site at Hicks Gate would almost certainly be demonstrably more appropriate to allocate for development than East Keynsham, and should certainly be identified as part of the longer term provision to be made in a spatial strategy for the required plan period and according to current policy and circumstances.
14. The inspector examining the adopted BANES Core Strategy in his report effectively signalled that Hicks Gate, the area at Bristol around the A4, is the most sustainable location in BANES to meet unmet need from Bristol, whilst recognising its position in the Green Belt. Indeed, the climate emergency declared by BANES strengthens this argument further as it means directing future development to locations that avoid the need to travel, and to where if travel is necessary, movement is possible by sustainable means and accessibility is achieved with trips of the shortest distances. Not only is Hicks Gate the most sustainable location for development relating to Bristol in BANES on the A4, adjacent to the Park and Ride site and the Bristol ring road, the site is close to Bristol city centre and it should feature very strongly in the essential discussions about where Bristol’s unmet need should be located.
15. Crest Nicholson has been working alongside its partners to the south of the A4 for many years in promoting land at Hicks Gate, and would welcome the opportunity to work collaboratively with BANES, Bristol City Council and other stakeholders in taking an allocation forward here.
16. 
1. Housing availability in England and Wales 2020, ONS [↑](#footnote-ref-1)
2. https://beta.bathnes.gov.uk/sites/default/files/2020-12/housing\_land\_supply\_trajectory\_2020.pdf [↑](#footnote-ref-2)
3. <https://beta.bathnes.gov.uk/sites/default/files/2021-08/Housing%20Trajectory%202021.pdf> [↑](#footnote-ref-3)
4. We acknowledge that the 2020 HDT measurement made a reduction in the period for measuring total homes required – usually this would be measured over a three-year period but an 11-month period has been used for the 2019/20 monitoring year. And a four month reduction is to be made to the 2020-21 HDT measurement. This is to account for disruption to housing delivery due to Covid-19. Whilst we have not made any such allowances in the table below, the important point to note is that in reality, any reductions will serve to further improve the Council’s HDT performance. [↑](#footnote-ref-4)