

# Rugby Borough Local Plan.

## Representations in response to the Issues and Options Consultation.

On behalf of Merriman Property.

Date: 31 January 2024 | Pegasus Ref: EMS.2707

Author: [REDACTED]

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# 1. Introduction

- 1.1. These representations are submitted by Pegasus Group on behalf of Merriman Property Limited in relation to the Rugby Borough Local Plan Issues and Options Consultation. These representations pertain to our client's interests at Land East of Kilsby Lane, Hillmorton, Rugby.
- 1.2. A Call for Sites proforma is submitted alongside this representation setting out the details of our client's land interests at Kilsby Lane, Hillmorton and a Site Location Plan is included at Appendix A.

## Personal Contact Details

|                  | Respondent Details | Agent Contact Details                            |
|------------------|--------------------|--|
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## 2. Land for Housebuilding

- 2.1. The current adopted Rugby Borough Local Plan 2011–2031 plans for 12,400 additional homes over the twenty-year plan period. Of these, 2,800 are homes that Coventry City Council was unable to accommodate within its administrative boundaries.
- 2.2. The current Local Plan seeks to accommodate 620 new homes a year as an average across the plan period. Between 2011–2023, an average of 673 new homes were built.

### Plan Period

- 2.3. The Issues and Option consultation document proposes a base date of 2021, and two plan periods are modelled: 2021 – 2041 and 2021 – 2050.
- 2.4. The Local Development Scheme sets out a timetable for the preparation of the Local Plan update and suggests submission of the new local plan by June 2025 and adoption by December 2026 in line with the Government’s deadline for preparing a local plan under the current system.
- 2.5. The National Planning Policy Framework (‘the Framework’) sets out a requirement for strategic policies to look ahead over a minimum 15-year period from adoption, to anticipate and respond to long-term requirements and opportunities (para 22). The Framework goes on to state that 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.
- 2.6. For the local plan to look ahead over a minimum of 15 years from adoption in December 2026, the plan period will need to cover at least the period to 2042. Housing and employment monitoring is always based at 1<sup>st</sup> April each year which means in December 2026 the next full year will start on 1<sup>st</sup> April 2027 and 15 years ahead would end on 31<sup>st</sup> March 2042.
- 2.7. The consideration of a longer plan period to 2050 is supported and would ensure the plan is set within a longer-term vision for the Borough, this will increase the certainty for all stakeholders, which is especially important in the context of the national changes ahead.
- 2.8. The base date of the emerging local plan should be 2023 and then rebased at 2024 and 2025 as the data is available until the plan is submitted in June 2025. The standard method takes account of past over or under-delivery as set out in the Planning Practice Guidance which notes:

*‘The standard method uses a formula to identify the minimum number of homes expected to be planned for, in a way which addresses projected household growth and historic under-supply’* (Paragraph: 002 Reference ID: 2a-002-20190220).
- 2.9. The affordability adjustment takes account of the previous supply. This means the previous over supply in housing since 2021 should not be factored into the housing land requirements for the new local plan.

## Housing Need

- 2.10. The local housing need for Rugby Borough calculated using the standard method is 506 homes per year.
- 2.11. The Coventry and Warwickshire Housing and Economic Development Needs Assessment (HEDNA 2022) commissioned by the Coventry and Warwickshire local authorities provides an alternative housing need figure. It uses the most up to date data available to produce a projection for future population growth and identifies an annual housing need figure for Rugby Borough of 735 homes per year (2021–41).
- 2.12. The use of this alternative housing need figure is supported as it is based on demographic trends and a known and acknowledged issue with the ONS 2014 projections.
- 2.13. The Framework states at paragraph 61:
- ‘That there may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals.’*
- 2.14. The proposed use of the HEDNA housing need figure is consistent with this. Because the proposed HEDNA housing need figure also applies the affordability uplift used in the government’s standard method, the plan base date should still be brought up to date as set out above.

## Housing Requirement

- 2.15. In order to set an appropriate housing requirement for the Borough, it is essential that any unmet needs from neighbouring areas are taken into account as required by the Framework and the Duty to Cooperate (para 61, 67 and the Positively Prepared soundness test).
- 2.16. The Framework, at paragraph 67, sets out that the requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment.
- 2.17. There is no indication in the Issues and Options consultation documents that these matters have been considered or addressed.

## Housing Supply

- 2.18. The Issues and Options consultation document sets out the sources of housing land supply including housing completions since 2021, planning permissions, and site allocations in the current local plan including at Coton Park East, South West Rugby, Rugby Gateway and Houlton (Rugby Radio Station). A small site windfall allowance of 50 dwellings per year is also identified.
- 2.19. The total supply identified is some 13,056 houses to 2041 and 15,346 houses to 2050. Taking account of the HEDNA methodology between 2021–2041 the Issues and Options consultation document identifies that an additional 3,114 houses must be accommodated and, between 2021–2050, an additional 8,101 are required.

- 2.20. As set out above, the plan period should be rebased and under or over supply against the previous local plan should not be taken into account.
- 2.21. The inclusion of at least a 10% contingency buffer to take account of the potential for circumstances to change is essential and supported.
- 2.22. Taking account of the need to extend the period to at least 2042, rebase the plan to 2023 and support the use of the HEDNA housing need figure (672 rebased to 2023), it is suggested that the supply still needing to be found to 2042 is at least an estimated 3,277 homes (rounded) rather than the 3,114 set out. This is based on a need for 14,045 homes (672 x 19 years 2023–42 plus 10%) and a supply of 10,768 (13,056 set out in the consultation document minus the completions for 2021–23).

## Potential Locations

- 2.23. The Council's Issues and Options consultation depicts potential housing locations within the Borough based on the sites that were put forward to the last plan and a high-level consideration of constraints and designations.
- 2.24. The inclusion of the broad location south of Hillmorton is supported and our client's site is submitted through the Call for Sites alongside these representations as a suitable site allocation within this broad area.
- 2.25. The potential locations identified include the significantly constrained areas of:
- South of Hinckley
  - Wolvey
  - East of Coventry
  - Wolston
  - Ryton-on-Dunsmore
  - Stretton-on-Dunsmore
- 2.26. Of the above-referenced sites, both "South of Hinckley" and "East of Coventry" are washed over by Green Belt. The other four locations are constrained by the Green Belt and, depending on the location of development, may require the alteration of Green Belt boundaries.
- 2.27. The policy context, under which the soundness of the Local Plan will be tested, is more rigorous than that of previous. The 2012 National Planning Policy Framework made clear that Green Belt boundaries should only be altered in exceptional circumstances, through the preparation of the Local Plan. Authorities should consider the Green Belt boundaries having regard to their intended permanence over the long term; they should be capable of enduring beyond the plan period.
- 2.28. Under the most recent iteration of the Framework, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional

circumstances are fully evidenced and justified. In accordance with paragraph 146 of the Framework, before concluding that exceptional circumstances exist, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development (emphasis added).

- 2.29. Therefore, the Council would firstly need to demonstrate that exceptional circumstances exist and second, that it has examined fully all other reasonable options. Whether exceptional circumstances have been demonstrated is a matter of planning judgment in a local plan exercise ultimately for the Inspector.<sup>1</sup>
- 2.30. Under the current Local Plan, Policy DS3 allocated 8 sites for development within the Main Rural Settlements ("MRS"). This was reduced from 9 under the Draft Local Plan, after the Inspector found that exceptional circumstances did not exist to justify altering the Green Belt boundaries at Brinklow.
- 2.31. All 8 allocated sites fell within the Green Belt, outside defined settlement boundaries. It is unclear, at present, whether a similar approach is to be taken in respect of the updated Local Plan. If so, the Council must consider the broad thrust of Chapter 13 of the NPPF in both assessing spatial options and making site selections.
- 2.32. It is essential that spatial strategy options are identified and considered as part of the process of preparing the Local Plan. All reasonable alternative options for the overall strategy for distributing growth in the Borough need to be identified and appraised through the Sustainability Appraisal process. This will then provide the basis of the site selection process to achieve the preferred strategy.
- 2.33. Whilst broad locations are identified there is no indication in the Issues and Options consultation that the spatial strategy options have been considered, i.e. the settlement hierarchy and the balance between larger strategic sites and smaller sites and the balance between urban concentration, new settlement or more dispersed growth. We would welcome the opportunity to comment on these elements of the local plan at the relevant time.

### **Potential Allocation: Land East of Kilsby Lane**

- 2.34. A Call for Sites proforma has been submitted alongside these representations for our client's site, Land east of Kilsby Lane ("the site"). A site location plan is included at Appendix A. This site is suitable for housing development, with no constraints to development and it is located in a sustainable location adjacent to the urban area. It is also available for development and achievable, with no viability issues identified.
- 2.35. The site is proposed to the Council as a potential housing allocation in the emerging Local Plan. It would deliver approximately 130 dwellings, including affordable housing and associated infrastructure including public open space and play facilities.

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<sup>1</sup> *R (on the application of IM Properties Development Ltd) v Lichfield DC* [2014] EWHC 2440 (Admin).

## Sustainability

- 2.36. Under the current Local Plan, the spatial strategy defines a clear settlement hierarchy. The first level comprises Rugby Town, the second comprises the Main Rural Settlements and the third consists of the Rural Villages. Beyond these is open countryside and the Green Belt.
- 2.37. Rugby Town is the most sustainable location within the Borough and provides greatest access to a range of services and facilities. This is reflected through the current Local Plan strategy and allocations.
- 2.38. The site has a close relationship to the existing settlement, due to its physical connection and proximity to built form. The site would form a natural extension to the existing settlement, comprising a development of an appropriate scale and character. Its location, adjoining the Rugby Urban Area, means the site benefits from good access to services and facilities.
- 2.39. Paragraph 114 of the NPPF requires that appropriate opportunities to promote sustainable transport modes can be taken up, given the type of development and its location. The site is well-connected to public transport; approximately a 2-minute walk (0.1 miles) from the "Lennon Close" bus stops and a 4-minute walk (0.2 miles) from the "Kilsby Lane" bus stops. These stops provide access to the "D1" service between Rugby and Daventry. Destinations farther afield can then be accessed from these locations.
- 2.40. The "D1" service operates 7 days a week, commencing as early as 05:00. Due to its hours of operation, and its regularity over evenings, weekends and bank holidays, this presents a viable and attractive alternative for future occupants.
- 2.41. As regards pedestrians, The Manual for Streets (DfT, 2007) recognises that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to ~800m) walking distance of residential areas, which residents may access comfortably on foot. Similarly, Planning for Walking (CIHT, 2015) sets out that land use patterns most conducive to walking have a typical catchment of around 800m or 10 minutes' walk. Building Sustainable Transport into New Developments (DfT, 2008) also echoes this sentiment, and adds that the propensity to walk or cycle is not only influenced by distance but also the quality of the experience.
- 2.42. The site may be accessed by pedestrians from Crick Road, a 30mph speed limit road with footways along both sides. The site is proximate to a range of services and facilities including: a food retail store, primary school, secondary school, public house, DIRFT and supermarket.
- 2.43. The sustainability of the site is confirmed by the Sustainability Appraisal underpinning the current Local Plan, which found the site to have a significant positive effect on access to good quality local services, leisure and cultural opportunities and a significant positive score in respect of sustainable and accessible transport.
- 2.44. In the Strategic Housing Land Availability Assessment ("SHLAA") which underpinned the current Local Plan, the site (reference ID: S14/O26 & S14/O67) was marked suitable, available and achievable. The SHLAA Update 2016 concluded similarly, finding the site (reference ID: S16/O35) to be suitable, available and achievable.



- 2.45. Appendix 7 of the SA detailed reasons for the selection, or rejection, of site options. This confirms that the only reason the site was not included in the preferred option related to the timing of delivery. This site therefore offers a logical option for allocation in this local plan review.
- 2.46. The deliverability of the site is also demonstrated by its planning history. In 2022, planning permission was refused for the erection of up to 130 dwellings, (reference: R15/1366) with only one reason for refusal, related to landscape impacts. The absence of other technical issues is important to highlight, particularly as the landscape concerns are not insurmountable.
- 2.47. The Landscape and Visual Impact Assessment supporting the application concluded that the proposed development was acceptable in landscape and visual terms. The reason for refusal came from a concern about the adverse impacts of the development on the Rainsbrook Valley Escarpment. A relationship was incorrectly drawn between the site and a site farther west which was the subject of a planning appeal (reference: APP/E3715/W/16/3158785). However, the 2016 appeal site was materially different in landscape terms. An appeal was considered but not pursued as the Council were able to demonstrate a good housing land supply at the time of the decision.
- 2.48. We request that the Council reconsider the landscape evidence for this site as part of the local plan review. The allocation of the site does not require the release of additional Green Belt land, it is available, deliverable and sustainably located, adjacent to the urban area, with access to a range of services and facilities. We request that consideration is therefore given to allocating this site for housing development.

### 3. Climate Change

- 3.1. The Council's Issues and Options consultation sets out that an update to the Local Plan is required, in order to address impacts of climate change. The Council's aim is for the updated Local Plan to give new impetus to the reduction of carbon emissions, the encouragement of sustainable development and the encouragement of alternative energy sources.

#### **Biodiversity Net Gain**

- 3.2. The legislative context is relevant insofar as section 19(1A) of the Planning and Compulsory Purchase Act 2004 (as amended) requires development plan documents to include policies designed to contribute to the mitigation of, and adaptation to, climate change.
- 3.3. Furthermore, Biodiversity Net Gain ("BNG") is to be mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). In light of this, the Council recognises that there is no requirement for the Local Plan to contain a policy which secures 10% BNG. This approach is supported; it would be superfluous given its legislative context.
- 3.4. Notwithstanding the above, the consultation sets out the following options:
- Seek more than the 10% BNG required by statute; and/or
  - Specify priority locations or allocate sites for offsite biodiversity net gain.
- 3.5. Concerns are raised in respect of the former. A more onerous requirement, exceeding that prescribed at law, would require robust justification. It would also have adverse consequences on the viability of development.
- 3.6. Similar issues have arisen elsewhere, noting in particular, the draft Rossendale Local Plan, which proposed a minimum requirement of 20% BNG. However, the Inspector's report found that the Council's evidence provided insufficient justification for such a requirement. Main modifications were necessary to therefore clarify that net gains in biodiversity will be sought where needed, to ensure consistency with national policy.
- 3.7. However, the specification of priority locations, or the allocation of sites for offsite BNG, is supported. BNG is inherently site specific; any such policies should be informed by a local viability assessment, upon which further comment would be necessary.

#### **Tree Canopy Cover**

- 3.8. The Council has also raised the possibility of introducing a policy which seeks to increase tree canopy cover. Whilst the objective is commendable, the intricacies and operation of any such policy must be questioned. In any event, it should be demonstrated that such a policy is proportionate and that it pursues a legitimate aim.
- 3.9. As with BNG targets in exceedance of 10%, an appropriate balance must be struck. Until such time that a local viability assessment has been completed, it is unclear whether this

policy would have similar adverse consequences on viability, or whether it would affect the deliverability of housing.

- 3.10. Furthermore, questions arise as to whether the policy would be applied flexibly or whether planning permission would be refused for development which fails to comply. Should it be applied rigidly, it is imperative that the Council substantiate targets with evidence to avoid arbitrary exercises of power and the obstruction of development.
- 3.11. The Council cite Colchester City Council as an exemplar. However, Colchester's guidance acknowledges that there will, inevitably, be circumstances where it is either impossible, or undesirable, to achieve a minimum 10% increase in canopy cover. In these circumstances, compensatory provision should be identified and secured through a legal obligation. Although this is to be permitted in "exceptional circumstances". The Council will need to give careful consideration to the drafting of any such policy to avoid draconian consequences.
- 3.12. Finally, the policy may complicate the delivery of BNG. An increase in tree canopy cover is not synonymous with the enhancement of biodiversity and so the rationale for any such policy must be made clear. Plainly, it would not be in the interests of the Local Planning Authority to overburden new development.

## 4. Town Centre Regeneration

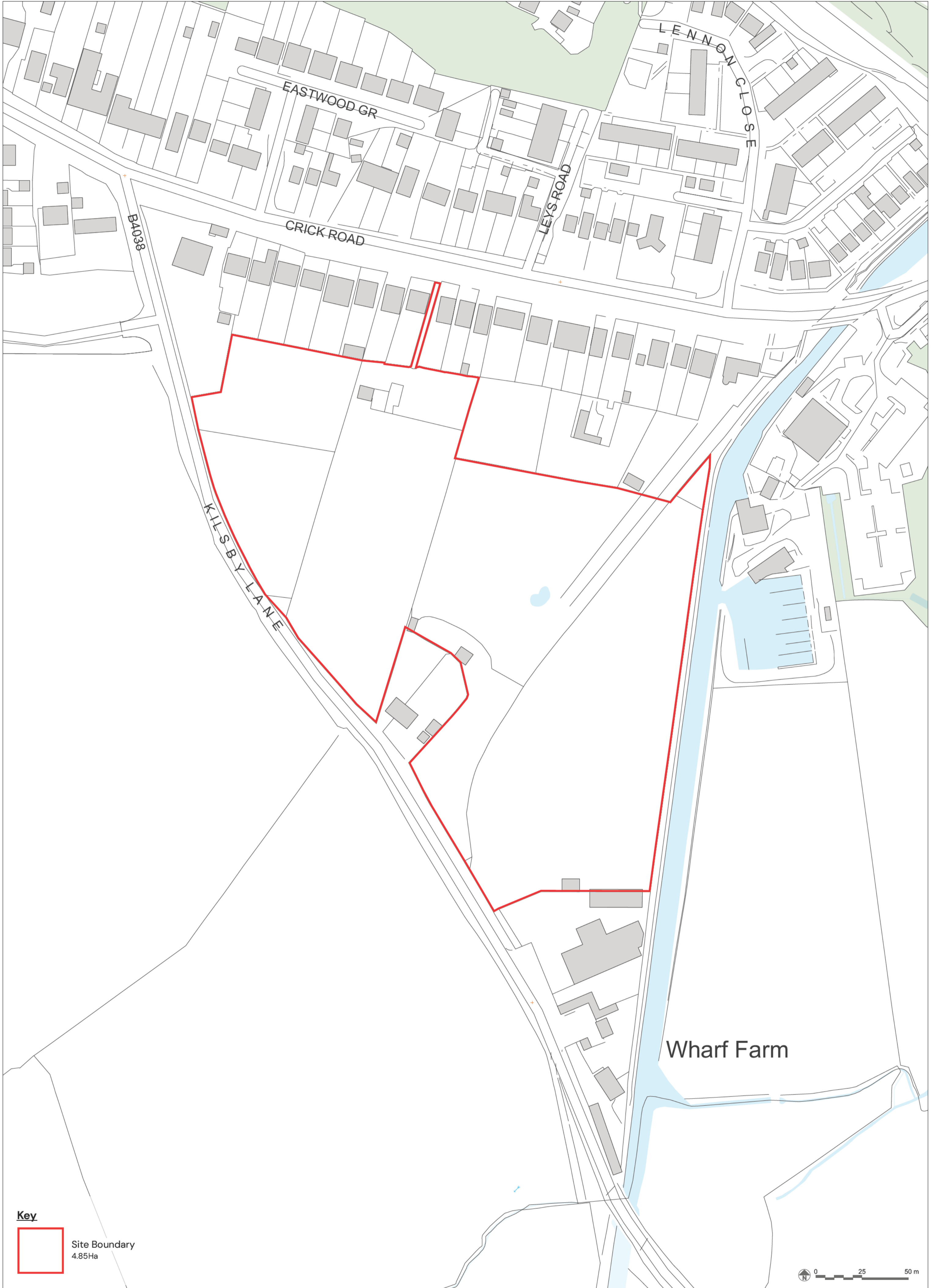
- 4.1. The Council's Issues and Options consultation highlights a need to update the policies of the current Local Plan, in order to respond to changes and to support town centre regeneration.
- 4.2. The Council are considering various policy changes to the Local Plan, including defining local centres. Currently, the only town centre defined on the Local Plan policies map is Rugby Town Centre. No district or local centres are shown.

### Designation of Local Centres

- 4.3. As regards local centres, the Council has suggested the designation of Hillmorton High Street. The Council recognises that defining local centres helps support new main town centre uses in these locations. It would also support the Council in monitoring changes over time.
- 4.4. The designation of Hillmorton High Street as a local centre is supported. As evidenced above, existing conditions demonstrate that Hillmorton has a good range of services and facilities and is well connected to public transport. In totality, Hillmorton is a sustainable location, absorbed by the main urban area of Rugby.
- 4.5. Paragraph 90 of the NPPF makes clear that planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters. The designation of new district and local centres, such as Hillmorton High Street, is therefore supported by national planning policy.




## Appendix A: Site Location Plan



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**Key**

 Site Boundary  
4.85Ha

Town & Country Planning Act 1990 (as amended)  
Planning and Compulsory Purchase Act 2004

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