

## PLANNING APPLICATION REPORT

**Case Officer:** James Gellini

**Parish:** Diptford

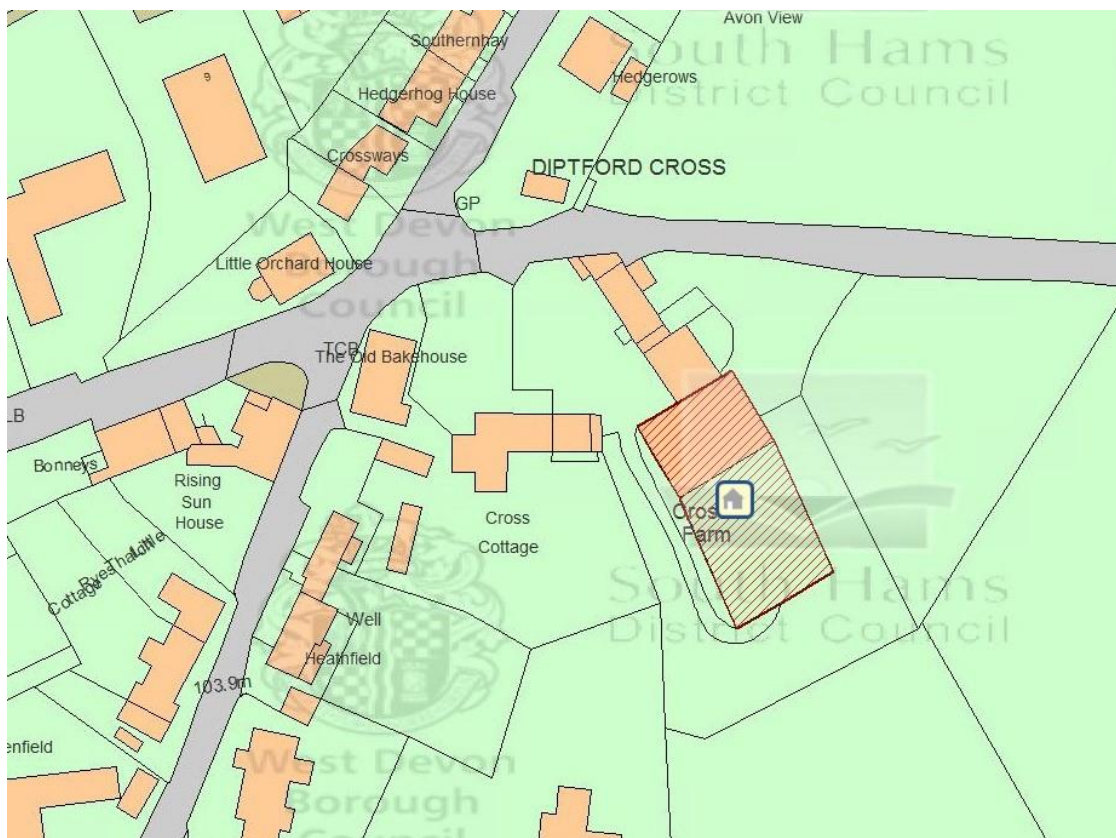
**Ward:** South Brent

**Application No:** 2304/23/VAR

### Applicant:

Mr James Bell  
Oakya  
Diptford  
Totnes  
TQ9 7NU

**Site Address:** Barn Adjacent Robins Nest, Diptford



**Development:** Application for variation of condition 2 (approved plans) of planning consent 4240/18/FUL

### Reason item is being put before Members:

At the request of Cllr Pannell, *'In view of the strong opposition of Diptford Parish Council and the number of objections on a variety of grounds including scale, prominence, impact on AONB and loss of amenity, I would like to call this to Committee for a decision, with a request for a site visit.'*

**Recommendation:** Conditional approval.

### Conditions:

1. Accord with Plans
2. Drainage
3. Unexpected Contamination
4. Access & Parking

5. Highway Debris
6. Landscaping Scheme
7. Glazing
8. Ecology
9. Roof Materials
10. Elevation Materials
11. No External Lighting

**Key issues for consideration:**

- Principle of Development
  - Design, Scale, Character & Landscape
  - Neighbour Amenity
  - Highways
  - Ecology & Trees
  - Flood Risk & Drainage
  - Sustainability
- 

**Site Description:**

The site relates to a large modern agricultural barn and associated concrete yard, located to the south west of Diptford Cross within the village of Diptford. The barn lies within a courtyard of existing buildings which historically were associated with 'Cross Farm' but have been converted into residential properties. Part of the barns north elevation is attached to the southern elevation of Robin's Nest. The dwelling of Cross Farm lies immediately to the west.

The site is within the South Devon Area of Outstanding Natural Beauty.

**The Proposal:**

This Section 73 Application proposes to amend Condition 2 (approved plans) of planning consent 4240/18/FUL; to amend the design of the previously approved dwelling. The main changes to the extant scheme proposed are:

- Change in shape of building from rectangular to T-shape (adding elements to the eastern sides of the north and south of the main body)
- Moving of main body of house approximately 5m further southwards and tilting a few degrees clockwise
- Increase of footprint from 120 sq m to 200 sq m (increase of 80 sq m / 66%)
- Raising of max ridge height by 400-700mm
- Inclusion of integral garage
- Slight change to configuration of windows; predominantly due to amended design/shape of the building
- Relocation of car parking area

**Consultations:**

County Highways Authority: Refer to standing advice, no highways implication.

Parish Council: Object

*'The Parish Council strongly object to this planning variation, as it does not look like a variation but a completely new plan. It is not on the footprint of the existing barn. The variation would lead to excessive overlooking of the neighbouring properties to the west of the property. There are issues regarding the*

*drainage on the property which would only increase with the development. The plans bring the line of the building forward of the current line which therefore breaches the current line. The Parish Council have concerns over moving the building line which would not be a variation but require a new planning application. The original plan had no west facing windows but now there are windows. The design variation also does not fit in with the character of the area. The Parish Council cannot therefore support this building variation.'*

### **Representations:**

Nine third party representations have been received; all of which object to the application. The following material planning considerations are raised within these comments:

- Excessive scale/footprint/ridge height
- Prominence
- Design not in-keeping with area
- Building extends beyond building line
- Impact on AONB
- Impact on street scene
- Loss of amenity (privacy/overlooking)
- Light spill/pollution
- Issues with drainage
- Considers the scheme to be a new application rather than variation to existing
- Suggests limit on construction hours, if approved

### **Relevant Planning History**

- 4240/18/FUL: Demolition of existing agricultural barn & erection of new dwelling – Conditional Approval 21<sup>st</sup> March 2019
- 1988/22/ARC: Application for approval of details reserved by conditions 3 (surface water drainage), 7 (landscaping), 10 (slates) and 11 (render) of planning consent 4240/18/FUL - Discharge of Conditions - SPLIT DECISION
- 2815/22/ARC: Application for approval of details reserved by condition 3 (Surface Water) and 7 (Landscaping) of planning application 4240/18/FUL - Discharge of condition Approved

## **ANALYSIS**

### **1.0. Principle of Development**

- 1.1. The principle of development for a new/replacement dwelling has already been established within the approved and implemented consent of 4240/18/FUL. The main assessment criteria in this S73 Application to amend the approved plans condition and alter the scale and design of the building is therefore to determine whether or not the revised scheme is acceptable with regards to its scale, design, landscape impact, amenity impact, and any other new and relevant planning considerations which need to be assessed as a result of the proposed changes.

### **2.0. Design, Scale, Character & Landscape**

- 2.1. The original approved scheme, under 4240/18/FUL, proposed to replace an existing barn – of which the framework for said barn remains in place. The assessment concluded that the replacement dwelling would be an improvement on the existing barn, would “*not be seen in its entirety with most of it hidden behind Robins Nest*”, and would “*conserve the AONB, and with appropriate landscaping enhance it*”. It was also noted that the

plot/garden size was bigger than typically preferred and that the design and materials chosen were appropriate.

- 2.2. The footprint and design of the main body of the proposed dwelling is essentially the same as the approved dwelling, albeit the main body has been moved 5m to the south and a modest 6m-7m deep wing has been added to both the north-east and south-east sides; which are obscured from public view by the main body of the house and by Robins Nest. These additional wings, which result in more of a T-shape than a linear rectangle, adding architectural interest and matching the style of adjacent less regular dwellings such as Cross Farm House, Sunflower House, and Greenfield, provide a lower garage and a slightly lower two-storey lounge and bedroom. Further, the original Pre-App response from the Council identified concern over the design being a “*long uninterrupted and rather bland elevation which needed breaking up*”, which has been achieved in the current design.
- 2.3. With regards to height, the garage element would be lower and match the ridge height of Robins Nest, providing an appropriate transition, and the ridge height of the main body of the dwelling is broadly the same height as both the existing agricultural shed and the ridge height of Mow Cottage (attached to Robins Nest), only increasing slightly from the existing.
- 2.4. Whilst there is a notable increase in footprint in comparison to the previously approved dwelling, of approximately 80 sqm – representing a 66% increase, this is still significantly less than the existing agricultural shed in which it is replacing (50 sq m or 20% less). Therefore, overall there would still be a notable decrease in footprint and built form at the site; which is deemed to be the more important criterion when assessing the appropriateness of scale. Further, the building is broken up more and with the northern element being lower than both the barn and the previously approved dwelling. For this reason, it is considered that the scale is acceptable; albeit it is at or close to the limit of what could be considered acceptable within the AONB and at the edge of the village, and in relation to the scale of neighbouring dwellings; of which the proposal is more in-keeping to many with regards to scale and footprint. The plot size is large for the area, and similar to that of the largest residential plots nearby and in the village; with the size of proposed dwelling to plot size ratio being directly comparable and thus acceptable.
- 2.5. Materials are unchanged, and there is not a material change with regards to the amount of glazed opening; thus, there is not considered to be excess light spill / pollution. The proposed revised dwelling would not move any further in front of the building line in relation to Robins Nest and Mow Cottage, there is no issue with moving further southwards by 5m, and the built form would not be more prominent within the street scene of AONB as a result of this slight re-siting.
- 2.6. The proposal is therefore considered to be of an appropriate scale, design and character, particularly when assessed against the existing agricultural shed and taking into account the plot size and similar dwellings within the area, and would not be detrimental to street scene, character of the area or the surrounding landscape. Thus, the proposal accords with JLP Policies TTV26, TTV29, DEV20, DEV23 and DEV25.

### 3.0. Neighbour Amenity

- 3.1. The broad siting of the dwelling has not changed significantly, albeit it has moved further away from Robins Nest to the north by roughly 5m; which is a slightly better relationship in terms of amenity.

- 3.2. The main amenity consideration and concern raised by some third parties relates to the provision of glazing at first floor level; particularly on the western elevation looking towards Cross Farm.
- 3.3. A single small window is located on the western elevation of the main body of the proposed house, facing Cross Farm and roughly 9m from the boundary. However, this serves only an en-suite and can be obscured glazed – which can be conditioned. Thus, there would no overlooking to the neighbour opposite. Two windows are proposed on the western elevation of the newly proposed southern wing element, serving a bedroom and landing. However, these are approximately 23m from the neighbouring boundary of Cross Farm, which is a substantial and acceptable separation distance, and would also be mostly obscured from looking towards the neighbouring property by virtue of the main body of the house. 2x rooflights are proposed on the roof of the new garage attached to the north of the main body of the house. These are higher level, 18m from the boundary with Cross Farm, and have a similar relationship as the first floor windows of Robins Nest do with Cross Farm.
- 3.4. Additionally, there is good screening between the two properties in the form of a 1.8m high fence with further hedge planting above this height.
- 3.5. Thus, there is not considered to be a loss of privacy to neighbours as a result of overlooking from windows and the proposal accords with JLP Policies DEV1 and DEV2.

#### 4.0. Highways

- 4.1. In terms of the access, utilisation of the existing and acceptable access arrangements raises no issues. As there would not be a change to access or a material change in vehicle movements to and from the site, there are no implications for highway safety. The altered location of parking also raised no issues. The DCC Highways Officer's raises no highways implications. Thus, the proposal is acceptable from a highways perspective, and complies with JLP Policy DEV29.

#### 5.0. Ecology & Trees

- 5.1. Precautionary ecological measures and enhancements were proposed and secured as part of the previous consent, in-line with an ecological report and recommendations, predominantly in relation to demolition. As works have already started, with the main body of the structure being removed, and there is no evidence of bats or other protected species at the site, it is not considered necessary to require a further updated ecological report. However, the existing condition requiring adherence to the Ecological Report is still nevertheless needed. Subject to this, the proposal is considered acceptable in this regard and would accord with DEV26 of the JLP.
- 5.2. In terms of trees, there are none nearby or that would be affected by the changes to the approved scheme. Landscaping details and enhancement were previously secured via condition, which will be re-attached.
- 5.3. The proposal is therefore considered acceptable with regard to trees and ecology, and accords with JLP Policies DEV26 and DEV28.

#### 6.0. Flood Risk & Drainage

- 6.1. Concerns have been raised by third parties regarding drainage, as was the case with the original application. However, there is no material change to the drainage or level of hardstanding across the site. The site is currently and has previously been occupied by notable levels of hardstanding in addition to a 250 sq m barn. The proposal would result in a reduction in built form by 20% in relation to this, in addition to the removal of impermeable surfaces and enhancement with regards to soft landscaping and a drainage scheme. The same drainage and landscaping conditions would be re-attached to require a detailed drainage scheme.
- 6.2. The site is within Flood Zone 1, previously comprised built form and hardstanding, and the proposed would not increase flood risk on site or elsewhere.
- 6.3. The proposal is therefore acceptable, and would provide a betterment in terms of drainage, and complies with JLP Policy DEV35.

## 7.0. Sustainability

- 7.1. With regards to the Council's recently adopted Council Climate Emergency Planning Statement 2022, JLP Policy DEV32, and requirement to improve sustainability and low carbon energy in all new developments, the applicant has submitted the Climate Emergency Compliance Form, in addition to some other relevant information. Proposed relevant measures and enhancements include: provision of air source heat pump, EV charging, rainwater harvesting, removal of asbestos, solar gain, and accommodating solar panels at a later date.
- 7.2. Given the nature of the development, these measures are considered to be satisfactory from a sustainability and carbon reduction standpoint and would notably enhance the scheme in this regards in comparison to the extant approval which could be built.

## 8.0. Other Matters

- 8.1. As this is a S73 variation to Condition 2 only, the previously attached conditions will be re-attached to any new consent. However, the time to implement condition is no longer relevant as development has already commenced and since passed the original three year period. It is also proposed to alter the glazing condition, to specifically require the window on the west elevation serving the en-suite is obscure glazed and fixed opening, in addition to restricting any further glazing.
- 8.2. The majority of comments received by the Parish and third parties have been addressed in the above sections. It is noted that concerns were also raised suggesting that the scope of the changes are too much for this application type, and that construction hours should be controlled. The scope of changes proposed still fall within the same red line area and description of development; replacing an agricultural shed with a single dwelling in broadly the same location within the site. It is therefore acceptable to propose a S73 Application to vary the plans condition to accommodate such changes. Construction hours are already controlled under separate legislation, and such stipulations were not included on the original permission and therefore it would not be proportionate to do so now.
- 8.3. There are not considered to be any other matters or material considerations relevant to the assessment of this application or recommendation.

## 9.0. Conclusion

- 9.1. In consideration of the above assessment, the proposal is recommended for approval subject to the recommended conditions.

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004.***

## **Planning Policy**

### Relevant Policy Framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

The relevant development plan policies are set out below.

**The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019:**

SPT1 Delivering sustainable development  
SPT2 Sustainable linked neighbourhoods and sustainable rural communities  
SPT3 Provision for new homes  
TTV1 Prioritising growth through a hierarchy of sustainable settlements  
TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area  
TTV26 Development in the Countryside  
TTV27 Meeting local housing needs in rural areas  
TTV29 Residential extensions and replacement dwellings in the countryside  
DEV1 Protecting health and amenity  
DEV2 Air, water, soil, noise, land and light  
DEV10 Delivering high quality housing  
DEV20 Place shaping and the quality of the built environment  
DEV23 Landscape character  
DEV25 Nationally protected landscapes  
DEV26 Protecting and enhancing biodiversity and geological conservation  
DEV28 Trees, woodlands and hedgerows  
DEV29 Specific provisions relating to transport  
DEV31 Waste management  
DEV32 Delivering low carbon development  
DEV35 Managing flood risk and Water Quality Impacts

## **Neighbourhood Plan**

There is no made Neighbourhood Plan or designated Neighbourhood Plan Area.

## **National Policy & Guidance**

National material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to Paragraphs 11, 130, 158, 174 & 176 and guidance in Planning Practice Guidance (PPG).

### **Local Guidance**

The following planning documents are also material considerations in the determination of the application:

- Plymouth and South West Devon JLP Supplementary Planning Document 2020
- Plymouth and South West Devon Climate Emergency Planning Statement 2022

### **Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

### Suggested conditions:

1. The development hereby approved shall in all respects accord strictly with drawing numbers 23-1-A3-1-PSLP Rev 1, 23-1-A3-2-PWSE Rev 1, 23-1-A3-3-PNEE Rev 1, 23-1-A3-4-PGFP Rev 1, and 31-1-A3-5-PFFP Rev 1, received by the Local Planning Authority on 4th July 2023.

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

2. Notwithstanding the submitted details, prior to the installation of any part of the surface water management scheme or before development continues above slab level, whichever is the sooner, full details of the most sustainable drainage option shall be submitted to and approved in writing by the Local Planning Authority (LPA). Design steps as below:

- a. Soakaway testing to DG 365 to confirm the use of soakaways or to support an alternative option. Three full tests must be carried out and the depth must be representative of the proposed soakaway. Test results and the infiltration rate to be included in the report.
- b. If infiltration is suitable then the soakaway should be designed for a 1:100 year return period plus an allowance for Climate change (currently 40%).
- c. If infiltration is not suitable then an offsite discharge can be considered. Attenuation should be designed for a 1:100 year return period plus an allowance for Climate change (currently 50%). (Please note if a discharge to an existing system is proposed then full details will be required to confirm the condition and capacity of the existing system to accommodate 1:100 year storm event plus 40%cc).
- d. The offsite discharge will need to be limited to the Greenfield runoff rate. This must be calculated in accordance with CIRIA C753. The discharge must meet each of the critical return periods. Full details of the flow control device will be required.
- e. If discharging surface water to the main sewer, then written permission from SWW will be required.
- f. A scaled plan showing full drainage scheme, including design dimensions and invert/cover levels of the soakaways/attenuation features, within the private ownership.
- g. The drainage scheme shall be installed in strict accordance with the approved plans, maintained and retained in accordance with the agreed details for the life of the development.

Reason: To ensure surface water runoff does not increase to the detriment of the public highway or other local properties as a result of the development in accordance with policy DEV35 of the Joint Local Plan.



3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

4. No part of the development hereby approved shall be brought into its intended use until the improvements to the access have been provided in accordance with drawing numbers 3040/18/13 and 3040/18/11 (submitted with the original application 4240/18/FUL). The stonework shall be constructed of natural stone which matches the colour and texture of that occurring locally. The new stonework shall be laid on its natural bed and pointed in a lime mortar recessed from the outer face of the stone. Machine cut or sawn faces shall not be used in the wall or for quoin stones. The works shown on this drawing shall be retained for that purpose at all times.

Reason: To ensure that adequate facilities are available for the traffic attracted to the site in accordance with policy DEV29 of the Joint Local Plan.

5. No mud, stones, water or debris shall be deposited on the public highway at any time.

Reason: In the interests of highway safety and in accordance with policy DEV29 of the Joint Local Plan.

6. Within 3 months of the date of this decision full details of a hard and soft Landscape Scheme have been submitted to, and approved in writing by the Local Planning Authority. The Landscape Scheme shall be prepared by an appropriately qualified professional and shall include:

- details of any earthworks associated with the development, including volumes of cut and fill and arrangements for disposal of any excess excavated material or importation of material;
- details, including design and materials, of any ancillary structures such as bin stores and signage;
- details of any lighting including function, location, design and intensity;
- materials, heights and details of fencing and other boundary treatments;
- materials, heights, levels and extent of hard landscape treatment, including access points, tracks, roads and any hardstanding areas;
- the location, number, species, density, form and size of proposed tree, hedge and shrub planting;
- the method of planting, establishment and protection of tree, hedge and shrub planting;
- maintenance schedules for the establishment of new planting and its ongoing management;
- a timetable for the implementation of all hard and soft landscape treatment

All elements of the Landscape Scheme shall be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. All work shall be completed in accordance with the timetable agreed in writing.

Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with

others of similar size and species unless the Local Planning Authority gives written consent to any variation. The landscaping scheme shall be strictly adhered to during the course of the development and thereafter.

Reason: In the interest of public amenity and the conservation and enhancement of the local landscape character in accordance with policy DEV23 of the Joint Local Plan.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order, 2015 (or any Order revoking and re enacting this Order) no windows, openings or other glazing other than those authorised by this permission shall at any time be inserted in the dwelling hereby permitted, without the prior permission, in writing of the Local Planning Authority.

Reason: To protect the amenity and privacy of the adjoining occupants in accordance with policy DEV1 of the Joint Local Plan.

8. The recommendations, mitigation and enhancement measures of the Ecological Report, by Butler Ecology (December 2018) shall be fully implemented prior to the commencement of the use hereby approved and adhered to at all times. In the event that it is not possible to do so all work shall immediately cease and not recommence until such time as an alternative strategy has been agreed in writing with the Local Planning Authority.

Reason: To safeguard the interests of protected species and in accordance with policy DEV26 of the Joint Local Plan..

9. The roof and first floor of the dwelling hereby permitted shall be clad in natural slates, fixed in the traditional manner with nails rather than slate hooks. Any hips shall be finished with a close mitre or narrow cement fillet rather than hip tiles. Prior to installation details including the types and sizes of natural slates to be used, together with the type, colour and profile of the ridge tiles shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development displays good design practice in respect of the age and character of the development and to allow the Local Planning Authority to assess the details of the scheme to ensure that their character is maintained in accordance with policy DEV20 of the Joint Local Plan.

10. Prior to installation, details of the proposed render type and colour (s) shall be agreed in writing with the Local Planning Authority and shall be applied without the use of metal beads or stops. Movement joints, where required, shall be positioned at changes of direction or directly behind rainwater downpipes.

Reason: To ensure that the finishes and colours are appropriate to the locality in accordance with policy DEV20 of the Joint Local Plan.

11. Unless agreed as part of the landscaping condition there shall be no floodlighting or other external lighting at the site.

Reason: To safeguard the appearance and character of the area in accordance with policy DEV23 of the Joint Local Plan.