

Neighbourhood Strategy (Planning Policy) Team
Fenland District Council
Fenland Hall
March
Cambridgeshire
PE16 8NQ

(Representations submitted by email neighbourhoodstrategy@fenland.gov.uk)

30th March 2016

Re: Doddington Neighbourhood Development Plan – Application for Neighbourhood Area Designation

Dear Sirs,

This letter provides Gladman Developments Ltd (Gladman) representations on the application made by Doddington Parish Council for the designation of a Neighbourhood Area, for the purposes of preparing a Neighbourhood Development Plan.

At this stage Gladman have no specific comments to make on the application for the Neighbourhood Area designation. However, as the first formal stage of preparing a Neighbourhood Plan, Gladman would like to take the opportunity to comment on the Doddington Neighbourhood Area application to highlight a number of key requirements to which the development of the emerging Neighbourhood Plan should have regard. Gladman wish to participate **in the Neighbourhood Plan's preparation and to be notified of further developments and consultations in this regard.**

Legal Requirements

Before a Neighbourhood Plan can proceed to referendum in must be tested against the Neighbourhood Plan Basic Conditions, set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 and further detailed in paragraph 065 of the Neighbourhood Plan PPG. These Basic Conditions are:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan
- b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order
- c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order
- d) The making of the neighbourhood plan contributes to the achievement of sustainable development

- e) The making of the neighbourhood plan is in general conformity with the strategic policies contained within the development plan for the area of the authority
- f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations
- g) Prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan

If a Neighbourhood Plan is not developed in accordance with the Neighbourhood Plan Basic Conditions there is a real risk that it will fail when it reaches Independent Examination.

National Planning Policy and Guidance

National Planning Policy Framework

The National Planning Policy Framework (the Framework) sets out the Government's planning policies for England and how these are expected to be applied. In doing so it sets out the requirements for the preparation of neighbourhood plans to be in conformity with the strategic priorities for the wider area and the role in which they play in delivering sustainable development to meet identified development needs.

At the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread through both plan-making and decision-taking. For plan-making this means that plan makers should positively seek opportunities to meet the development needs of their area and Local Plans should meet Objectively Assessed Needs (OAN) for housing, with sufficient flexibility to adapt to rapid change. This requirement is also applicable to neighbourhood plans.

The application of the presumption in favour of sustainable development will have implications for how communities engage with neighbourhood planning. Paragraph 16 of the Framework makes clear that Qualifying Bodies preparing neighbourhood plans should develop plans that support strategic development needs set out in Local Plans, including policies for housing development and plan positively to support local development.

Paragraph 17 further makes clear that neighbourhood plans should set out a clear and positive vision for the future of the area and policies contained in those plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. Neighbourhood Plans should seek to proactively drive and support sustainable economic development to deliver the homes, jobs and thriving local places that the country needs, whilst responding positively to the wider opportunities for growth.

Paragraph 49 of the Framework is clear that ***'relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites'***. This applies not only to statutory Development Plan documents but is also applicable to both emerging and 'made' neighbourhood plans.

Planning Practice Guidance

Key sections of the Planning Practice Guidance (PPG) were recently updated on 11th February 2016. It is clear from these requirements that the ambition of the neighbourhood plan will need to be aligned with the strategic needs and priorities for the wider area and should take account of the latest and most up-to-date evidence of housing needs¹.

Relationship with Local Plans

¹ PPG Paragraph 040, Reference ID: 41-040-20160211

To meet the requirements of the Framework and the Neighbourhood Plan Basic Conditions, Neighbourhood Plans should be prepared to conform to up-to-date strategic policy requirements set out in Local Plans. Where an up-to-date Local Plan has been adopted and is in place for the wider authority area, it is the strategic policy requirements set out in this document that a Neighbourhood Plan should seek to support and meet. When a Local Plan is emerging or is yet to be found sound at Examination, there will be lack of certainty over what scale of development a community must accommodate or the direction the policies in the Neighbourhood Plan should take.

The current Development Plan for Fenland consists of the Fenland Local Plan adopted in May 2014. It is this document that the neighbourhood plan should seek to support and meet. The Neighbourhood Plan should ensure that it allows for sufficient flexibility to react to changes in the market to assist the Council in ensuring its housing needs are delivered in full. The Parish Council should also ensure it fully considers the need to allocate housing land and the consideration of housing reserve sites early in the plan making process.

High Court Judgments

Woodcock judgment

The recent Woodcock High Court judgment demonstrates the implications for progressing a neighbourhood plan where there is no local plan in place nor a five year housing land supply. In summary, this High Court judgment demonstrates the following key points:

- That §14 and §49 of the Framework in regard to five year housing land supply and the weight to be given to extant housing land supply policies applies equally to both emerging **and 'made' neighbourhood plans as other development plan documents otherwise** adopted and/or emerging by the local planning authority.
- There is nothing in policy or statute that elevates neighbourhood planning to a level above the wider development plan that enables special consideration.
- Neighbourhood plans must respect national policy and the core planning principles outlined within the Framework.
- Prematurity must be assessed against the whole of the requirements of the PPG. In neighbourhood planning, there is no requirement for planning bodies to produce an objective assessment of housing needs, as there is no requirement to consider the effectiveness or justification of a plan.

In light of the above, it is imperative that the neighbourhood plan allows for sufficient flexibility so that it able to respond to changes in the market and any housing policies contained in the Plan is not found out of date.

Crownhall Estates Judgment

On 21st January 2016, Holgate J handed down judgment in R(Crownhall Estates Ltd) v Chichester District Council [2016] EWHW 73(Admin). Crownhall was not subject to a further appeal to the Court of Appeal and therefore represents the most recent judgment of the High Court on Neighbourhood Planning. However the judgment does not mark the end of policy development in this area, nor is it a definitive constraint on the exercise undertaken by a Neighbourhood Plan Examiner when the Neighbourhood Plan reaches examination.

Whilst the judgments highlights that a qualifying body is not responsible for preparing strategic policies in its neighbourhood plan to meet objectively assessment need, the PPG updates on 11th February which followed the publication of the High Court judgment confirms that this guidance should be followed.

Neighbourhood Plan Policies and Proposals

In accordance with the Neighbourhood Plan Basic Conditions, Neighbourhood Plan policies should align with the requirements of the Framework and the wider strategic policies for the area set out in **the Council's Local Plan**. Neighbourhood Plans should provide a policy framework that complements and supports the

requirements set out in these higher-order documents, setting out further, locally-specific requirements that will be applied to development proposals coming forward.

The Framework is clear that Neighbourhood Plans cannot introduce policies and proposals that would prevent development from going ahead. They are required to plan positively for new development, enabling sufficient growth to take place to meet the strategic development needs for the area. Policies that are clearly worded or intended to place an unjustified constraint on further sustainable development taking place would not be consistent with the requirements of the Framework or meet the Neighbourhood Plan Basic Conditions.

Communities should not seek to include policies in Neighbourhood Plans that have no planning basis or are inconsistent with national and local policy obligations. Proposals should be appropriately justified by the findings of a supporting evidence base and must be sufficiently clear to be capable of being interpreted by applicants and decision makers. Policies and proposals should be designed to add value to policies set out in Local Plan and national guidance, as opposed to replicating their requirements. The community should liaise **with the Council's planning team** to seek advice on the appropriateness of the Neighbourhood Plan's proposals.

Sustainability Appraisal/Strategic Environmental Assessment

The preparation of a Neighbourhood Plan may fall under the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) that require a Strategic Environmental Assessment (SEA) to be undertaken where a **Plan's proposals would be likely to have significant environmental effects**. The requirement to undertake an SEA will be dependent on a **Neighbourhood Plan's proposals**, but is likely to be necessary where a Plan is proposing specific allocations or site designations.

In accordance with Schedule 1 of the SEA Regulations, a Screening Assessment of a Neighbourhood Plan's proposals should be completed to assess whether an SEA must be prepared. Where an SEA is required this should be commenced at the earliest opportunity, alongside the preparation of the emerging Neighbourhood **Plan, to ensure the Neighbourhood Plan's proposals have been properly considered** through the SEA process, and appropriately justified against other reasonable alternatives. Where an adequate SEA has not been undertaken a Neighbourhood Plan is unlikely to meet the Neighbourhood Plan Basic Conditions.

Although Neighbourhood Plans do not require a Sustainability Appraisal (SA) of their proposals, preparing an SA can help to show how a Neighbourhood Plan will contribute to the achievement of sustainable development, a Neighbourhood Plan Basic Condition. Where an SEA is required, extending this assessment to the preparation of an SA is unlikely to require significant additional input.

The Council's planning team will be able to advise on the likely need for an SEA of the Neighbourhood Plan's proposals. To be compatible with EU obligations, further appraisals, such as a Habitats Regulations Assessment, may also be required depending on local circumstances.

I hope you have found this letter to be constructive. Should you have any queries in relation to our response please do not hesitate to contact us.

Yours faithfully

John Fleming

Gladman Developments Ltd