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Suffolk Coastal District Council
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Woodbridge Library
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IP12 1DT

(Representations submitted by email: suffolkcoastallocalplan@eastssuffolk.gov.uk)

2nd November 2017

**Re: Kelsale cum Carlton Development Plan – Application for Neighbourhood Area
Designation**

Dear Sir/Madam,

Gladman Developments Ltd (Gladman) specialise in the promotion of strategic land for residential development with associated community infrastructure. This letter provides Gladman's representations on the application made by Kelsale cum Carlton Parish Council for the designation of a neighbourhood area, for the purposes of preparing a neighbourhood development plan.

As this is the first formal stage of preparing a neighbourhood plan, Gladman would like to take this opportunity to comment on the Kelsale cum Carlton Neighbourhood Area application to highlight a number of key requirements to which the development of the emerging neighbourhood area 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. We would also like to offer our assistance in the preparation of the neighbourhood plan and invite the Parish Council's to get in touch regarding this.

Legislation

Before a Neighbourhood Plan can proceed to referendum it must be tested against a set of Neighbourhood Plan Basic Conditions, set out in §8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended by section 28a of the Planning and Compulsory Purchase Act 2004). The Basic Conditions which the Neighbourhood Plan must be found in compliance with are as follows:

(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.

(d) The making of the order contributes to the achievement of sustainable development.

(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

(f) The making of the order does not breach, and is otherwise compatible with, EU obligations.

If the Neighbourhood Plan is not developed in accordance with all of the Neighbourhood Plan Basic Conditions as set out above then there is a real risk that it will fail when it reaches Independent Examination.

High Court Judgments

Woodcock Judgement

The 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 well 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 planning 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 qualifying bodies to produce an objective assessment of housing needs.

Crownhall Judgment

On 21st January 2016, Holgate J handed down judgment in R(Crownhall Estates Ltd) v Chichester District Council [2016] EWHC 73 (Admin). This judgment summarises the respective legislation at §12-§28 (further detailed below), and the relevant principles at §29.

This judgment does not however mark the end of policy development, on 11th February 2016, the Secretary of State published a series of updates to the Neighbourhood Planning chapter of the Planning Practice Guidance (PPG). In particular, the PPG now stresses the importance of housing reserve sites and providing indicative delivery timetables to ensure that emerging evidence of housing needs is addressed to help minimise any potential conflicts that can arise to ensure that a neighbourhood plan is not ultimately overridden by the contents of an emerging Local Plan.

It is important to note that the updates to the PPG were drafted following the Crownhall judgment and it is essential that the steering group consider all of the advice and guidance contained in the PPG.

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 and the role they must play in meeting the development needs of the local area in which they control.

Paragraph 16 of the Framework sets out the positive role that Neighbourhood Plans should play in meeting the development needs of the local area. It states that:

"The application of the Presumption (In Favour of Sustainable Development, set out in paragraph 14 of Framework) will have implications for how communities engage in neighbourhood planning. Critically it will mean that neighbourhoods should:

- *Develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;*
- *Plan positively to support local development, shaping and directing development in their area that is outside of the strategic elements of the Local Plan"*

Further guidance on the relationship between Neighbourhood Plans and strategic policies for the wider area set out in a Council's Local Plan is included in paragraph 184 of the Framework:

"The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date plan is in place as quickly as possible. Neighbourhood Plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood Plans...should not promote less development than set out in the Local Plan or undermine its strategic policies".

It is clear from the above that neighbourhood plans should be prepared in conformity with the strategic requirements for the wider area as confirmed in an adopted Development Plan. As highlighted above, on 11th February 2016, the Secretary of State published a series of updates to the PPG for the preparation of neighbourhood plans. This update makes clear that neighbourhood plans should take account of the latest and up-to-date evidence of housing needs. In particular, where a qualifying body is attempting to identify and meet housing needs, a local planning authority should share relevant evidence on housing need gathered to support its own plan making.

Neighbourhood Plans should also provide indicative delivery timetables and consider the allocation of reserve sites to ensure that emerging evidence of housing need is addressed in order to help minimise any potential conflicts where a post Framework Local Plan is yet to be adopted.

A further update to the PPG was published on 19th May 2016. Paragraph 50 of the PPG¹ makes clear that all settlements have a role to play in delivering sustainable development and should avoid blanket policies restricting housing development. Accordingly, the neighbourhood plan should not include policies that would act to arbitrarily preclude the delivery of sustainable development coming forward within the neighbourhood area.

Relationship with Local Plans

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.

¹ PPG Reference ID 50-001-20160519

The current development plan that covers the Kelsale cum Carlton Neighbourhood Plan (KCCNP) area and the development plan which the KCCNP will be tested against is the Suffolk Coastal District Core Strategy and Development Management Policies, adopted in July 2013. This plan sets out the over-arching strategic vision for the district and covers the period up to 2027. Whilst the Development Plan was prepared after the publication of the Framework, the Examining Inspector expressed significant concerns regarding the Plan's ability to meet full Objectively Housing Needs (OAN) for housing. To address this issue, the Council made a commitment to undertake an early review to address the level of housing provision by 2015.

This review has now commenced and the Council are working with the other local authorities in the Ipswich Policy Area to produce an aligned/joint Local Plan. This plan will seek to ensure that full housing needs are met across the wider housing market and set out future strategic needs. This plan is very much in its infancy, with Issues and Options Consultation having only just concluded and therefore to ensure the longevity of the KCCNP and to avoid key aspects of the plan being superseded Gladman suggests the plan is sufficiently flexible towards new development as Section 38(5) of the Planning and Compulsory Purchase Act 2004 states:

'if to any extent, a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approached, or published (as the case may be).'

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.

Should you require any further information about the contents of this response or would like to arrange a meeting with a representative from Gladman then please do not hesitate to contact me.

Yours Faithfully,

A handwritten signature in black ink, appearing to be 'Megan Pashley', with a stylized, cursive script.

Megan Pashley

Gladman Developments Ltd.

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