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Our Ref: AB/gc/
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Dear Antoinette

Wivenhoe Neighbourhood Plan – Pre-submission Consultation

Strutt and Parker act on behalf of Mr Charles Gooch, local farmer and owner of Land at Elmstead Road and Land behind the Fire Station, Colchester Road. These two sites are proposed for allocation in the Wivenhoe Neighbourhood Plan (WNP) (Policies WIV30 and 31).

The purpose of this letter is to set out our general comments and support for the WNP but make specific comments on the proposed housing allocation policies for the two sites. We previously made observations at draft Plan stage and many of the comments set out below are similar to those previously expressed.

General Comments

1. The Government's National Planning Policy Framework (NPPF) confirms the objectives for neighbourhood plans and we are pleased that the WNP closely reflects those aspirations to help shape the vision for the town. We note that the WNP has been positively prepared recognising the need for new development for the benefits that it may bring for Wivenhoe, focussing on ensuring that it is delivered in a way that will contribute to rather than harm the quality of the town. My client, as a local landowner, with the key interest in two of the proposed housing allocations, is committed to continue to work in partnership with the Steering Group for the WNP and local community in bringing forward the proposals for the two sites to help deliver the homes and associated infrastructure that have been identified in the WNP.
2. We note that the Steering Group for the WNP have undertaken extensive work to establish the needs for Wivenhoe with a thoroughly researched evidence base to support and justify the proposed policies and allocations in the WNP. It is also helpful that the Steering Group have engaged with my client to establish the opportunity to bring forward the proposed housing allocations for WIV30 and 31. It is, of course, a fundamental requirement that the policies and allocations contained in the neighbourhood plan are deliverable to meet the basic conditions contained in Schedule 4B paragraph 8 (2) of the Town and Country Planning Act 1990 is landowners views and collaboration is therefore critical to this process.

3. We also note that the SEA Environmental Report (August 2016) is helpful in demonstrating the effect of policies in the WNP and alternatives considered as well as the level of engagement undertaken to inform the WNP. We are conscious that it will be necessary to demonstrate how the WNP will contribute to achieving sustainable development to meet the basic conditions.
4. Our principal concerns relate to some of the specific requirements for the proposed sites for residential development for WIV30 and 31 where there are elements of precision or detail which are not wholly justified and may well preclude other options for these sites to comply with the presumption in favour of sustainable development.

Housing Allocations – WIV23

5. As indicated in our representations at draft Plan stage, we note that the WNP, at paragraph 16.17, continues to suggest that there should be a maximum of 250 dwellings. We continue to express our reservations that this is not an appropriate approach. The WNP will need to ensure that the housing requirements for the Neighbourhood Plan area generally accord with the strategic policies contained in the current development plan, the Colchester Borough Council Core Strategy (2008 with Focussed Review July 2014).
6. Policy SD1 of the Strategy sets the strategic housing requirements for the Borough and expresses the overall figure as “at least, 19,000 homes between 2001 and 2023”. The introduction of a cap on housing requirements would not accord with either with this strategic policy or the presumption in favour of sustainable development contained in the NPPF. The Preferred Options Local Plan to replace the 2014 Local Plan is currently on consultation. It again expresses the housing requirement for the period 2013 to 2033 as a minimum (18,400 homes). This is followed through at Table SG2 of the Plan where a 250 homes figure for Wivenhoe is expressed as a minimum.
7. As previously suggested in our previous representation, we acknowledge that the WNP indicates that a maximum figure is necessary because of issues with the local primary school and constraints on suitable sites. However, this approach is questionable given the NPPF requirement to plan positively for development. We pointed out previously that the Independent Examiner on the Woodcote, South Oxfordshire Neighbourhood Plan found that “*the imposition of a maximum figure for housing creates a significant and fundamental conflict with the NPPF*”, considering this to be an inflexible and inappropriate approach to sustainable development. The Examiner’s recommendations were that the number of houses should be represented as a “minimum” or “at least”.

8. To provide some comfort for the WNP, the Examiner on the Woodcote Plan also confirmed that this approach does not mean that “*any development goes*” and that policies in the NP and those set out nationally and locally would still control development. As a consequence, by expressing numbers as a minimum would not mean that additional sites would need to be allocated so long as the Borough Council are satisfied that the allocations shown meet the needs arising from the adopted/emerging strategic policies of the development plan.
9. As far as the WNP is concerned and in response to the reasons set out for imposing a maximum we would suggest that the issue of school capacity would need to be reviewed as detailed proposals/applications come forward for sites. Similarly, detailed planning applications would need to be accompanied by evidence as part of the normal submission and determination process to address any possible constraints.
10. It may be that the WNP can recognise that these issues will need to be addressed in the supporting text at 16.17. However, against this background, we would respectfully suggest that policy WIV23 and the Site Allocation policies set out in Section 17 should be amended to express housing numbers as a minimum.

Draft Policies WIV30 and 31

11. As indicated above, our client is the landowner of the sites proposed for allocation at Elmstead Road and Behind the Fire Station, given the references WIV30 and 31.
12. We are broadly supportive of the objectives of the Draft WNP for the two sites, although we continue to have reservations that, as drafted, the policies are over prescriptive and inflexible. This is particularly important as we are mindful that further work will be necessary on:
 - Practicality and deliverability of all aspects of the components of the proposed development as set out in the policies.
 - The scale of the likely planning obligations and other costs associated with each of the two sites.
13. By way of explanation, the delivery of the very specific detailed requirements on tenure/mix and size of units, whilst certainly informed by the work on establishing local needs for the draft WNP, will also need to take account of market signals having regard to paragraph 16 of the Planning Practice Guidance (PPG). It is therefore considered important to establish or make a distinction whether all the specific requirements are necessary so as to be expressed within the policy itself or desirable which ought to be expressed in the supporting text to ensure or provide certainty on the acceptability and achievability of development having regard to the local market considerations.

14. In terms of viability it will be important to ensure that the planning obligations necessary or sought as part of the policies are realistic, achievable and clearly expressed so as not to compromise the deliverability of the development in accordance with the PPG. There is some ambiguity and uncertainty with the policies so far drafted. For instance, on the Land at Elmstead Road it is suggested that the allocation is subject to a cemetery and associated works be given to Wivenhoe Town Council. It is still not clear whether the developer is responsible for provision or is it intended that the land is provided? We would certainly suggest that this should be reworded to require land for a cemetery to be provided (assuming it is suitable for such purposes). The developer should not be responsible for the implementation of the cemetery.
15. As indicated above, we have some concerns that the policies as drafted are more prescriptive than is necessary and there would almost certainly be other approaches which would be consistent with sustainable development. Certainly, it is best practice that the wording of policies in Neighbourhood Plans should be reasonably flexible to meet the basic conditions. Our detailed suggestions in relation to policies WIV30 and 31 are as follows:

WIV30 - Land at Elmstead Road site:

16. The land shown in Figure 36 totalling 0.93 hectares is allocated for 25 dwellings development will be expected to accord with the following criteria:
 - (i) The dwellings should preferably be a maximum of two bedroom suitable for single people or as starter homes for young couples; and
 - (ii) 20% of these dwellings should be affordable housing, subject to viability; and
 - (iii) subject to suitability of ground conditions and viability, cemetery land of a minimum of 1.5 hectares in size shall be provided to Wivenhoe Town Council with car parking for 12 cars, suitably fenced on all sides and incorporating a suitable footway through it, with a cold water supply to a stand pipe ; and
 - (iv), (v), (vi) and (vii) No comment as these are matters that would be a normal requirement for any planning application.
 - (viii) This is a matter that should be dealt with through the Council's CIL and so should be deleted.

WIV31 – Land behind the Fire Station

17. The land shown in Figure 39 totalling 3.06 hectares of which 2.7 hectares is allocated for 80 dwellings. Development will be expected to accord with the following criteria:



- (i), (ii), (iii), (iv), (v) and (vi) The mix expressed in the policy as drafted should be expressed as a guideline rather than part of a policy for the site. This could include reference to some self-build plots
- (vii) Agreed.
- (viii) Agreed subject to viability, which should be stated.
- (ix) This is a matter that should be dealt with through the Council's CIL.
- (x) and (xi) These are matters that would be a normal requirement of a planning application.

18. As indicated above, we would suggest that several of the site specific criteria set out in the policies that have to be satisfied contained within the wording of the policies or the allocations would or will be normal requirements of Borough Council planning policy (e.g. highways, pedestrian and vehicular accessibility wildlife surveys, landscaping, lifetime homes) and it is questionable whether such matters ought to be in the policies or perhaps referred to in the supporting text.

To conclude, my client is committed to working in partnership in bringing forward proposals for the two sites at WIV 30 and 31 to assist meet the aspirations for the WNP and local community. Equally, it will be important to ensure that the policies to go forward in the WNP meet the basic conditions test to ensure that the plan is robust and able to deliver what has been set out.

Please do not hesitate to contact me if any matters in this letter require further clarification and we look forward to continued engagement with the WNP Steering Group and local community to help progress the Neighbourhood Plan.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy Butcher'.

Andy Butcher Dip Tp MRTPI
Associate Partner