

Wivenhoe Neighbourhood Plan - Regulation 16 Consultation
Comments and Proposed Changes on behalf of Charles Gooch.

Executive Summary

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 these representations 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 and pre-submission stage of the WNP and many of the comments set out below are similar to those previously expressed. Indeed, our client is disappointed that those representations have largely been ignored in the Submission Plan. As the owner of two of the four sites identified in the WNP to provide 105 of the 250 homes proposed (40% of the overall total) this is regrettable. We would have hoped for greater dialogue over the contents and components of delivery on the two sites to aid the Basic Conditions. There has been no contact or feedback from the Neighbourhood Plan Group since our last submission of 6th September 2016 at pre-submission stage of the WNP (copy attached).

General Comments

1. 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, has key interests in two of the proposed housing allocations. He 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, 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. Landowners views and collaboration is therefore critical to this process. For the reasons set out above, we have concerns that this is not fully represented in the policies set out in the Submission WNP.
3. Our principal concerns relate to certain policies and inconsistencies with those at local or national level and more particularly the specific requirements for the proposed sites for residential development for WIV30 and 31. With these 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 and delivery of sustainable development.

Provision of Additional Sports Pitches, Play Areas and Allotments – WIV8

4. We note that the WNP provides for a policy relating to the provision of additional sports pitches, play areas and allotments at Policy WIV8. This refers to requirements for Section 106 contributions or Community Infrastructure Levy (CIL). Colchester Borough Council does not have a CIL. It does have policies for contributions towards such facilities as part of an adopted Supplementary Planning Document (2006). It is therefore questionable whether this policy ought to appear in the WNP as this is a matter that is more properly dealt with by Colchester Borough Council.

Housing Allocations – WIV23

5. We are pleased to note that the Submission WNP has removed references to a “maximum” of 250 dwellings for the Parish area that was previously set out in the Draft Plan in line with our representations. Nevertheless, we consider that there should be clarity on the way housing numbers are expressed. By way of background, 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”. Furthermore, the Draft Local Plan to replace the 2014 Local Plan at Examination also expresses the housing requirement for the period 2013 to 2033 as a minimum (18,400 homes) at Policy SP3. This is followed through at Table SG2 of the Plan where a 250 homes figure for Wivenhoe is expressed as a minimum.
7. Against this background, we note that Policy WIV23 refers to the sites at WIV28-31 “with a capacity of 250 dwellings”. We would suggest that this policy and preceding paragraph 16.17 should be explicit in stating these figures “as a minimum” or “at least” to be consistent with the development plan and national planning policy. We also note that paragraph 17.13 still states that the 250 dwellings is a maximum. This reference should be removed.
8. As indicated in our representation of 6th September 2016, 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. 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.

Policies WIV30 and 31

9. As indicated above, our client is the landowner of the sites proposed for allocation at Land at Elmstead Road and Behind the Fire Station, given the references WIV30 and 31.
10. We are broadly supportive of the objectives of the WNP for the two sites. As set out in our representations of 6th September 2016, we continue to have reservations that, as drafted, the policies are over prescriptive and inflexible. In response to our previous representations, we note that the Consultation Statement (December 2017) indicated that “A review of the WNP will be undertaken against the background of all comments received” (page 40). However, there is little perceptible difference between the Draft of May 2016 and the Submission WNP. We therefore have to reiterate and add to the comments previously made in terms of :

- 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.
11. By way of explanation, the delivery of the very specific detailed requirements on tenure/mix and size of units, whilst informed by the work on establishing local needs for the draft WNP, will also need to take account of the Strategic Housing Market Assessment prepared by HDH Planning and Development for Colchester Borough Council, Braintree District Council, Chelmsford City Council and Tendring District Council (2015) as well as advice in the Planning Practice Guidance (PPG), including that relating to market signals (paragraph 16). It is 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. This would ensure flexibility and provide certainty on the acceptability and achievability of development having regard to the local market considerations in particular.
12. 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.
13. Furthermore, and in relation to the cemetery requirement, my client still remains to be convinced that the land identified for such purposes, at Figure 37, is the most appropriate site for such a development when considered against other alternatives. Whilst my client is willing to assist the Parish meet this objective, further land in his ownership and directly opposite the Football Club (as indicated on the plan attached) would present a better site where facilities (such as parking) could be shared with the Football Club.

14. As indicated above, we continue to have 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 achieving 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 comments and suggestions in relation to policies WIV30 and 31 are set out below. Elements shown in italics are where we consider changes should be made to the Policy. Elements shown in [] are where we suggest the requirements should be omitted and/or referred to in supporting text.
15. **WIV30 - Land at Elmstead Road** - The land shown in Figure 36 totalling 0.93 hectares is allocated for *a minimum 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* or that percentage which is relevant under Borough policies at the time the planning application is submitted; and
 - (iii) *subject to suitability of ground conditions and viability*, a cemetery 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. [In our view, the requirements set out are too prescriptive and could be dealt with as part of the application process.];
 - (iv), (v), (vi) and (vii) No comment. [These are matters that would be a normal requirement for any planning application and it is questionable whether these requirements should be expressed as policy.]
 - (viii) [This is a matter that should be dealt with through the Borough Council policies and should be deleted or referred to in the supporting text.]
16. **WIV31 – Land behind the Fire Station** - The land behind the Fire Station shown in Figure 39 totalling 3.06 hectares of which 2.7 hectares is allocated for *a minimum 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 is presumptive and 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) [Whilst there are no objections to land being set aside for allotment provision, the access to it, shown on Figure 40 and referred to in the policy, is unnecessary. Detailed planning for the site can provide for an access through the new development proposed by the Policy to meet the objectives (vii) and (viii).]
 - (viii) Agreed [subject to viability, which should be stated.]
 - (ix) [Refer to 4 above.]
 - (x) and (xi) [These are matters that would be a normal requirement of a planning application and should be deleted or referred to in the supporting text.]
17. We have no objections to the additional area of land adjacent to the site allocated for housing to be a potential site for a care home. However, it is considered that the area should form a firm allocation on the Proposals Map. In this regard, we made representations to the Colchester Borough Council Local Plan in August 2017 making the case that this area of land should be included within the settlement boundary. A copy of those representations is attached. The Local Plan Examination is yet to be scheduled. It is considered that the WNP Proposals Map 1 at page 94 should be amended to include the site for the care home within the settlement boundary for the reasons set out in the representations to the Local Plan.
18. As indicated above, we consider 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). Such matters ought to be referred to in the supporting text.

To conclude, my client is committed to 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.

We would be pleased to review these matters with the Steering Group in the lead up to the Examination to determine the scope for a Memorandum of Understanding in order to aid the Inspector. We would also welcome the opportunity to appear at an Examination should this be arranged or provide further information to an Inspector as part of that process.