

Dear Sir/Madam,

Re: Durham Neighbourhood Plan – Regulation 14 consultation

Introduction

This letter provides the response of Gladman Developments Ltd (hereafter referred to as "Gladman") to the pre-submission version of the Durham Neighbourhood Plan (DNP) under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012. Gladman specialise in the promotion of strategic land for residential development with associated community infrastructure.

Gladman has considerable experience in the development industry across a number of sectors, including residential and employment development. From that experience, we understand the need for the planning system to provide local communities with the homes and jobs that are needed to ensure residents have access to the homes and employment opportunities that are required to meet future development needs of the area and contribute towards sustainable economic development.

Through these representations, Gladman provides an analysis of the DNP and the policy decisions currently being promoted within the Plan. Comments made by Gladman through these representations are provided in consideration of the DNP's ability to fulfil the Neighbourhood Plan Basic Conditions as established by paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended) and supported by the Neighbourhood Plan chapter of the Planning Practice Guidance¹ (PPG).

Legal requirements

Before a neighbourhood plan can proceed to referendum it must be tested against a set of basic conditions set out in paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). The Basic Conditions that the DNP must meet 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).

¹ Section ID: 41

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

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 provides guidance on the requirement for the preparation of neighbourhood plans to be in general conformity with the strategic priorities for the wider area and defines the role which neighbourhood plans can play in delivering sustainable development.

At the heart of the Framework, is a "*presumption in favour of sustainable development*" which, as outlined in paragraph 14, should be seen as a golden thread running 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.

Paragraph 16 of the Framework makes clear that the presumption in favour has implications for how communities engage in neighbourhood planning, stating 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 the strategic elements of the Local Plan; and**
- **Identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with their neighbourhood plan to proceed. "**

Furthermore, paragraph 17 sets out that neighbourhood plans should define a succinct and positive vision for the future of the area and that neighbourhood plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. In addition, 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.

Further guidance for groups involved with the production of neighbourhood plans is specified at paragraph 184;

"Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. 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 Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should

plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”

This makes clear that the ambition of the neighbourhood plan should be aligned with the strategic needs and priorities of the wider area as confirmed in the adopted Development Plan. It is therefore important that sufficient flexibility is included within the Plan so that it is able to respond positively to changing circumstances which can arise through the preparation of any future emerging Local Plan.

Planning Practice Guidance

It is clear from the requirements in the Framework that neighbourhood plan policies should be prepared in general conformity with the strategic requirements for the wider areas, as confirmed in an adopted Development Plan. The requirements set out in the Framework have now been supplemented by the publication of Planning Practice Guidance (PPG).

On the 11th February 2016, the Secretary of State (SoS) published a series of updates to the neighbourhood planning chapter of the PPG. In summary, these updated a number of component parts of the evidence base that are required to support an emerging neighbourhood plan.

This guidance is intended to ensure that emerging evidence of housing need is addressed, to in turn help to minimise any potential conflicts which can arise and ensure that policies are not overridden by a new Local Plan or subsequent Site Allocations Local Plan.

On the 19th May 2016, the SoS published a further set of updates to the neighbourhood planning chapter of the PPG.² The update also emphasised that;

“.... All settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.”³

Accordingly, the DNP will need to ensure that it takes into account the latest guidance issued by the SoS so that it can be found to meet basic condition (a).

Relationship to Local Plan

Adopted Development Plan

The current Development Plan for County Durham is contained in the relevant ‘saved policies’ of the Local Plans prepared by each of the former District and Borough Councils’. The adopted Development Plan was prepared in accordance with a previous era in national planning policy and guidance. The Framework now requires Local

² Paragraph: 084 Reference ID: 41-084-20160519 (Revised 19/05 2016)

³ Paragraph: 044 Reference ID: 41-044-20160519 (Revised 19/05/2016).

Planning Authorities to prepare assessments for the relevant housing market and land availability. Given that the Development Plan for the neighbourhood plan area is out of date and time expired it is important that the Plan allows for sufficient flexibility so that it is not ultimately superseded by a new Local Plan as s38(5) of the Planning and Compulsory Purchase Act 2004 states that:

'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, approved or published (as the case may be).'

Durham Neighbourhood Plan

Context

This section highlights the key issues that Gladman would like to raise with regards to the content of the DNP as currently proposed. It is considered that some policies do not reflect the requirements of national policy and guidance. In this regard, Gladman have therefore sought to recommend a series of alternative options that should be explored prior to the Plan being submitted for Independent Examination.

Policies

Policy S1: Sustainable Development Requirements of All Development and Re-development Sites

Whilst we support the general approach to the policy in principle, Gladman is concerned that the emphasis of the policy is to 'protect' the greenbelt through the redevelopment of brownfield land. Whilst noting the importance of Green Belt, it is important to note that the Plan does not set out an approach which seeks to 'protect' the existing Green Belt when the redrawing of Green Belt boundaries may be necessary through the subsequent Local Plan review and it is important the DNP does not undermine the potential future need for development and release of land from the Green Belt and could result in the NDP becoming out of date should this occur. In this regard, this element of the policy should be modified to 'Redevelopment of a brownfield site within the neighbourhood area will be supported'.

Gladman is further concerned with the policy's emphasis towards the 'protection of biodiversity/geodiversity, designated wildlife sites and protected species'. It is a concern that the emphasis of the policy is very much on 'protection' of these assets as opposed to the approach required by paragraph 113 of the Framework which refers to the need for criteria based policies in relation to proposals affecting protected wildlife or geodiversity sites or landscape areas, and that protection should be commensurate with their status and gives appropriate weight to their importance and contribution to wider networks.

Policy S2: Sustainable Development Requirements of All New Building Developments Including Renovations and Extensions

Although recognising the importance of design principles, it is important that this policy does not place unsubstantiated requirements to conform to certain development forms and style and that the policies contained in the plan avoid unnecessary prescription or detail that does not render development proposals unviable.

Policy H1: Protection of the World Heritage Site

The above policy seeks to protect Durham Cathedral and Castle World Heritage Site and its setting. This policy is considered inconsistent with the Framework as it does not allow for the balancing of harm with the benefits of development. Paragraph 138 of the Framework accepts that not all parts of a World Heritage Site and their

setting necessarily contribute to their significance and that the loss of a building or element should be considered in the context of paragraph 133 or 134 of the Framework.

Whilst this policy does not rule out development, the requirement that development should protect the setting of the World Heritage Site is therefore out of kilter with the approach of national policy that accepts that harm can occur but that harm would need to be balanced against the significant public benefits as outlined at paragraph 133 of the Framework or the public benefits as outlined at paragraph 134 of the development proposal.

Policy H5: Listed Buildings, Scheduled Ancient Monuments, Registered Parks and Gardens and Registered Battlefields

The second limb of this policy at H5.2 is considered inconsistent with the approach taken by national planning policy and the recognition contained at H5.1 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal.

Policy H6: Non-designated Heritage Assets

Gladman is concerned that the approach taken by policy H6 fails to recognise the separate balancing exercise contained in the Framework. The Framework is clear that a balanced judgment will be required having regard to the scale of harm or loss and the significance of the heritage asset. The policy as written appears to be more consistent with the approach taken to designated heritage assets as opposed to non-designated heritage assets.

Policy G2: Designation of Local Green Spaces

The plan intends to designate parcels of land as Local Green Space (LGS). In order to designate land as LGS the Town Council must ensure that it is able to demonstrate robust evidence to meet national policy requirements set out in the Framework. The Framework makes clear at §76 that the role of local communities seeking to designate land as LGS should be consistent with the local planning of sustainable development for the wider area. Paragraph 76 states that:

*'Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a **plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period**'*

Further guidance is provided at §77 which sets out three tests that must be met for the designation of LGS and states that:

'The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- Where the green space is reasonably close proximity to the community it serves;*
- Where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreation value (including as a playing field), tranquillity or richness of its wildlife; and*
- Where the green area concerned is local in character and **is not an extensive tract of land.**'*

The requirements of the Framework have now been supplemented by the advice and guidance contained in the PPG. Gladman note paragraph 007 of the PPG which states,

'Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines the aim of plan making.'

Of further note is paragraph 015 of the PPG (ID37-015) which states,

'Paragraph 77 of the National Planning Policy Framework is clear that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently, blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a 'back door' way to try to achieve what would amount to a new area of Green Belt by another name.'

Designation of LGS should not be used as a mechanism to designate new areas of Green Belt (or similar), as the designation of Green Belt is inherently different and must meet a set of stringent tests for its allocation (paragraphs 82 to 85 of the Framework).

The issue of whether LGS meets the criteria for designation has also been explored in a number of Examiner's Reports across the country and highlight the following decisions:

- The Blackwell Neighbourhood Plan Examiner's Report recommended the deletion of two LGS designations measuring approximately 19ha and 32ha respectively and found both designations did not have regard to national policy which states that LGS should only be used where the area concerned 'is not an extensive tract of land.'
- The Seldlescombe Neighbourhood Plan Examiner's Report recommended the deletion of a LGS measuring approximately 4.5ha as it was found to be an extensive tract of land.
- The Oakley and Deane Neighbourhood Plan Examiner's Report recommended the deletion of a LGS measuring approximately 5ha and also found this area not to be local in character. Thereby failing to meet 2 of the 3 tests for LGS designation.
- The Alrewas Neighbourhood Plan Examiner's Report identifies that both sites proposed as LGS in the neighbourhood plan 'in relation to the overall size of Alrewas Village' to be extensive tracts of land. The Examiner in this instance recommended the deletion of the proposed LGSs which measured approximately 2.4ha and 3.7ha.

It is noted that several of the sites are quite extensive in size and are unlikely to be appropriate for LGS designation.

Policy G3: Creation of the Emerald Network

This policy states that proposals that would result in a deterioration in the wildlife value of a site in the network will be refused. Gladman is concerned with this policy as currently proposed as it fails to recognise that development could enhance existing biodiversity values near or in the network. Further, the Parish Council does not have the ability to 'refuse' planning applications as this responsibility falls solely to the Council who will need to determine development proposals through the planning balancing exercise.

Policy D1: Land for Residential Development

It is noted that the sites listed under Policy D1 all benefit from planning permission, as such, they should not be promoted as housing allocations in the neighbourhood plan but instead referred to as existing commitments in the neighbourhood area.

Policy D4: Housing for Older People and People with Disabilities

The above policy seeks at least 10% of private and intermediate dwellings to be provided in the form of housing for older people. Whilst recognising the issue of an ageing population is very much of concern to the steering group, in its current form, the policy would apply to all residential developments across the neighbourhood area. Gladman consider that in seeking to apply this principle wholly, sustainable development opportunities could be missed over genuine concerns around viability and could result in an overly prescriptive policy tool.

Indeed, it is further noted at paragraph 4.160 of the draft plan is the implementation of adaptable dwelling standards through the optional technical standards. Although the supporting text seeks to encourage developers to implement these standards, Gladman consider that the reference to optional technical standards should be removed as the Written Ministerial Statement 2015 made clear that these standards should only be undertaken through an emerging Local Plan based on a clear and up-to-date assessment of need and that neighbourhood plans should not be used to apply the new national technical standards.

Policy D6: Design of New and Renovated Housing to the Highest Standards

This policy requires housing developments to meet the Building for Life Criteria, however, the policy as worded seeks to treat this guidance as though they comprise of national policy. Building for Life criteria simply sets out guidance to help new housing attain higher quality design. All of the principles within Building for Life may not apply in all cases and therefore does not allow a decision maker to apply this policy consistently and with ease. It is therefore recommended that this policy seeks to 'encourage' development to incorporate building for life principles where necessary and where these would not harm the viability of a development proposal.

Conclusions

Gladman recognises the role of neighbourhood plans as a tool for local people to shape the development of their local community. However, it is clear from national guidance that these must be consistent with national planning policy and the strategic requirements for the wider authority area. Through this consultation response, Gladman has sought to clarify the relation of the DNP as currently proposed with the requirements of national planning policy and the wider strategic policies for the wider area.

Gladman is concerned that the plan in its current form does not comply with basic conditions. Accordingly, the Parish Council should consider the issues raised in these representations and ensure that the policies which do not comply with national policy and guidance are amended to ensure the Plan can be found in conformity with basic conditions.

Gladman hopes you have found these representations helpful and constructive and would welcome the ability to assist in the Steering Group in preparing the neighbourhood plan prior to its submission under Regulation 15.

If you have any questions do not hesitate to contact me or one of the Gladman team.

Yours faithfully,

John Fleming
Gladman Developments Ltd.