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(Representations submitted by email to [planningpolicy@eastherts.gov.uk](mailto:planningpolicy@eastherts.gov.uk))

9<sup>th</sup> March 2016

Re: Sele Ward Neighbourhood Development Plan – Application for Neighbourhood Area Designation

Dear Sirs,

This letter provides **Gladman's** representations on the application made by Hertford Town 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 Sele Ward 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.**

Gladman would also like to offer their assistance in the preparation of the neighbourhood plan and invite the Parish Council to get in touch regarding this.

#### Neighbourhood Plans - Guidance and Legislation

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 requirements for the preparation of neighbourhood plans and the role these should take in setting out policies for the local area. The requirements set out in the Framework have now been supplemented by the guidance contained in the Neighbourhood Planning chapter of the PPG.

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”.***

Before a Neighbourhood Plan can proceed to referendum it 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:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan*
- 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*
- 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*
- The making of the neighbourhood plan contributes to the achievement of sustainable development*
- 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*
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations*
- 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.

### 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.

The East Hertfordshire District Local Plan (EHDLP) was adopted in April 2007. A number of policies contained **in the EHDLP were saved following the Secretary of States ‘Saving Direction’ in April 2010**. The EHDLP was prepared in accordance with a different era in national policy and therefore pre-dates the approach to plan making set out in the Framework, which includes assessments of the relevant housing market and land availability. The EHDLP sets **out the Council’s land use policies covering the period to 2011**. The EHDLP is therefore time expired and out-of-date against the requirements of the Framework.

The Council is in the process of preparing its emerging Local Plan which will cover the period to 2031. The East Hertfordshire District Plan (EHDP) is only at an early stage in preparation with the Council having consulted on its preferred options consultation in May 2014. The Council anticipate that a pre-submission consultation of the EHDP is expected to take place in spring 2016.

The progression of the Neighbourhood Plan needs to be progressed in alignment with the emerging Local Plan and allow for a sufficient degree of flexibility to react to changes in the market i.e. in the event of an undersupply of market and affordable housing or the development requirements for the village change through future iterations of the Local Plan.

#### 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.

Given the recent Woodcock Judgment, in the event the Council are unable to identify a 5 year housing land supply, the housing policies contained in the Neighbourhood Plan will also be found out-of-date. The Parish Council should therefore ensure that it allows sufficient degree of flexibility to ensure housing needs are delivered in full.

#### 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

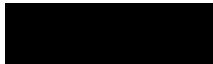
The preparation of a Neighbourhood Plan may fall under the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) that require a Strategic Environmental Assessment (SEA) to be undertaken where a **Plan's proposals would be likely to have significant environmental 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.

Yours faithfully



Gladman Developments Ltd