



8th June 2014

Kevin Steptoe
Director of Planning
East Hertfordshire District Council
Wallfields
Pegs Lane
Hertford SG13 8EQ

Dear Mr Steptoe

Buntingford Neighbourhood Plan

This letter supplements the representations in my 10th March and 14th May letters.

The additional information that has recently been submitted by the Town Council in their 21st May letter does nothing to respond to my submission that the proposed Neighbourhood Plan Area is inappropriate as it will entirely transfer the decision-making process for one of the main towns within East Hertfordshire from its proper place in the District Plan to the Neighbourhood Plan.

The Town Council's proposals continue to ignore the statutory requirement that the policies of the Neighbourhood Plan must conform with the strategic policies contained in the development plan for the area. The words *development plan* clearly refer to the adopted development plan and not to any emerging draft District Plan. It remains the case that the Neighbourhood Plan cannot proceed until the strategic policies in the emerging District Plan have been through the whole of the consultation and examination process and the District Plan has been adopted.

That position is not affected in any way by the recent decision of the High Court in the legal challenge to the Tattenhall Neighbourhood Plan. The Judge drew express attention to the provisions of Paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 which provides that : *A draft order meets the basic conditions if(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)*

There is a very significant difference between the Tattenhall Neighbourhood Plan and the Buntingford Neighbourhood Plan which makes it clear that the decision of the High Court does not in any way support a decision to proceed with the Buntingford Neighbourhood Plan in advance of the adoption of the emerging District Plan.

The Judge in the Tattenhall case quoted from the draft Tattenhall Neighbourhood Plan as follows : *In the absence of a current adopted policy setting out housing supply for the whole local authority area, the Neighbourhood Plan does not seek to determine the overall quantum of houses to be built within the Neighbourhood Area during the plan period. Rather, its emphasis is on influencing how housing will be delivered. Housing supply for the local authority area will be vigorously examined over the coming period through consideration of the emerging Cheshire West and Chester Local Plan The approach taken by the Neighbourhood Plan is clear - it allows for any specific housing numbers and site allocations to be determined through the emerging Local Plan and the rigorous examination that this will entail, whilst adopting a positive approach to housing growth.*

The Tattenhall Neighbourhood Plan is therefore expressly intended to follow and interpret the policies of the adopted Local Plan in due course. By contrast, it is clear from the representations made by the Town Council to the December Inquiry and repeated in response to further planning applications on other sites that the Buntingford Neighbourhood Plan will in fact seek to run ahead of the emerging District Plan by severely restricting the quantum of future housing development in Buntingford and allocating sites within that restricted limit.

Such an approach means that it will be unlawful for the District Council to approve the Buntingford Neighbourhood Plan in advance of the adoption of the District Plan. This reinforces the point that a decision to approve the Buntingford Neighbourhood Plan Area is substantially premature.

The NPPF also makes the position absolutely clear at paragraph 184 as follows :

'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.

The statutory provisions and the NPPF together make it clear that the Buntingford Neighbourhood Plan cannot proceed in advance of the adoption of the emerging District Plan and that a decision to designate the Buntingford Neighbourhood Plan Area is premature.

The Town Council's 3rd February 2014 Statement however says ' *We plan to work closely with the local planning authority to achieve this mission statement and enable the active participation of stakeholders in the consideration of the requirements of the emerging Local Plan to be produced by East Herts District Council.*'

I therefore conclude once again that a decision by the Executive on 1st July to designate the whole of Buntingford and its surrounding parishes as a Neighbourhood Area would be unlawful.

Can you please confirm that these representations and my previous letter will be reported in full to the Executive at its 3rd June meeting.

Yours sincerely



Member of the Law Society's Specialist Planning Panel

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