West Oxfordshire District Council
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31st July 2015

Re: Chipping Norton Neighbourhood Plan 2015 – 2031

(Representations submitted via email to community.development@westoxon.gov.uk)

Introduction

Gladman Developments Ltd (Gladman) specialise in the promotion of strategic land for residential development and associated community infrastructure. From this experience, we understand the need for planning to deliver the homes, jobs and thriving local places that the country needs. Every effort should be made to delivering the housing and economic needs of an area, whilst responding positively to the wider opportunities for growth.

These representations are made in response to the current consultation held by West Oxfordshire District Council on the submission version of the Chipping Norton Neighbourhood Plan (CNNP) under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012.

Through these representations, Gladman provide an analysis of the CNNP’s vision, objectives and suite of policies including their supporting text as submitted, highlighting areas in which we feel the document currently lacks clarity or there is insufficient justification for policies the plan seeks to adopt.

Gladman contend that the CNNP, as submitted, contains a series of flaws not only in its application of national planning policy and guidance, but also lacks clear, robust and up-to-date evidence to justify the inclusion of a number of policies and objectives that it seeks to adopt. We recommend that the progression of the CNNP to examination be delayed to allow sufficient time to undertake the significant additional work required through a fundamental overhaul to the development strategy as proposed. This is to ensure that the Plan can be found consistent with national planning policy, guidance and the Neighbourhood Plan Basic Conditions. Failure to do so will likely result in the CNNP being found unable to meet basic conditions (a), (d), (e) and (f) if it is progressed to examination at this time.

National Planning Policy and Guidance

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 Neighbourhood Planning Chapter contained in the Planning Practice Guidance (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:

a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan
b) 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
c) 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
d) The making of the neighbourhood plan contributes to the achievement of sustainable development
e) 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
f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations
g) 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 then there is a real risk that the Plan 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 West Oxfordshire Local Plan was adopted in 2006 and covered the period up to 2011. A number of policies contained within the adopted Local Plan were ‘saved’ following the Secretary of States ‘Saving Direction’ in June 2009. The West Oxfordshire Local Plan (2006) is therefore time expired and the evidence underpinning the Local Plan is significantly out-of-date.

Gladman note that the Council has recently submitted its emerging Local Plan to the Secretary of State for Independent Examination. The emerging Local Plan covers the period up to 2031. It is anticipated that the Local Plan will be subject to an Examination in Public (EiP) later in the year, no dates have yet been confirmed. The emerging Local plan seeks to deliver at least 10,500 dwellings over the plan period. Policy H1 confirms that Chipping Norton is required to deliver 1,800 dwellings over the plan period, this figure should not be taken as an absolute target or a maximum ceiling to limit future sustainable growth.

However, it is important to note that the housing requirement contained in the Local Plan submission version does not seek to deliver the full objectively assessed needs (OAN) for housing. The Local Plan has yet to be examined by an Inspector at the EiP and therefore the housing requirement and spatial strategy could change significantly in the interim, and may require Chipping Norton to deliver a significantly higher level of housing than proposed in the submission version of the Local Plan.

Although the Neighbourhood Plan PPG indicates that Neighbourhood Plans can be advanced before an up-to-date Local Plan is in place, Gladman would strongly question the ability to progress the Neighbourhood Plan on this basis. If a Neighbourhood Plan is progressed prior to an up-to-date Local Plan being prepared, or the strategic policies and development requirements set out in an emerging Local Plan change, then work on the Neighbourhood Plan is likely to be abortive representing both a waste of the Steering Groups and local planning authorities’ time and resources. A Neighbourhood Plan cannot be consistent with the requirements of the Framework or meet the Neighbourhood Plan Basic Conditions if it is progressed on a development plan that is out-of-date. We therefore recommend that the Examination of the CNNP be delayed until the strategic priorities for the wider area have been successfully tested at examination and subsequently adopted by West Oxfordshire District Council.

Gladman consider that the CNNP in its current form fails to comply with various key paragraphs of the Framework and PPG as well as failing to meet basic conditions (a), (d), (e) and (f) which will be addressed throughout this representation. If the Steering Group fails to heed this advice and attempts to progress the Neighbourhood Plan to examination it will likely be found unable to meet the basic conditions and the Plan will not be able to proceed to referendum. It is Gladman’s view that the CNNP is fundamentally flawed and requires substantial amendment, redrafting and the removal of several policies before progressing any further.

**Chipping Norton Neighbourhood Plan**

Upon reviewing the submission version of the CNNP it is clear that its vision, aims, objectives and suite of policies throughout are based on out-of-date evidence and in some cases the evidence is noticeably absent or lacking. The approach taken by the CNNP is entirely inconsistent with the requirements of the Framework, PPG and the Neighbourhood Plan Basic Conditions.

Gladman submit that a fundamental overhaul to the development strategy is required to ensure that the CNNP can be found in compliance with the requirements of national planning policy, guidance and the Neighbourhood Plan Basic Conditions. To progress the CNNP in its current form ahead of the examination of the emerging Local Plan will effectively pre-empt the strategic priorities for the wider area. The CNNP cannot be seen to support the strategic priorities for the wider area when these have yet to be successfully tested at the EiP. We therefore recommend that the examination of the CNNP be delayed until the emerging Local Plan has been successfully tested at Examination and subsequently adopted by West Oxfordshire District Council.

Gladmans’ specific comments to the suite of policies are as follows:

*Policy M3 and Policy M4*
Policy M3 states that proposals for residential development will be required to contribute towards the provision of high quality play and activity spaces for children and young people. Larger schemes of 50 or more dwellings will be expected to provide play space on site, smaller schemes will be required to provide contributions through CIL payments. Policy M4 repeats these requirements.

Gladman consider that the provision of public open space will be adequately dealt with by the local planning authority and should therefore be deleted from the CNNP.

Policy M6

The above policy states that proposals for development that reuse brownfield land where it is not of high environmental value will be strongly supported.

Gladman contend that this policy is in direct conflict with the positive approach required by the Framework. The supporting text of this policy makes clear at paragraph 6.25 of the CNNP’s intention to prioritise the redevelopment of brownfield land. The apparent prioritisation of previously developed land is contrary to the explicit requirements of paragraph 111 of the Framework, which encourages but does not prioritise the re-use of previously developed land.

Furthermore, there is no robust evidence to suggest that the brownfield sites identified by figure 6.5 will become available over the plan period. The CNNP will need to ensure that it allows for a significant degree of flexibility to allow for the delivery of sustainable greenfield development to help deliver the district’s housing needs.

Gladman recommend the deletion of policy M6 in its current form as it is inconsistent with basic conditions (a), (d) and (e).

Policy M7, M8, M9, M10 and M11

The above policies seek to protect and enhance the landscape setting of the town. Developments should ensure net gains in biodiversity, providing measures to improve landscape quality and retain existing trees, hedgerows and habitats.

Gladman submit that new development often offers the opportunity, where necessary, to enhance the existing biodiversity values and can often be integrated into development proposals through high quality design, ensuring both existing and future residents benefit from any potential ecological enhancements. This helps maintain their role as part of the local and wider area’s biodiversity network. However it is important to remember that the removal of such assets such as trees and hedges may be necessary to ensure the delivery of a wider scheme i.e. for access. The CNNP will therefore need to allow for a sufficient degree of flexibility.

Furthermore, sufficient weight is already afforded to the protection of AONB and landscape by national planning policy and local policy requirements, we therefore recommend the deletion of these policies as they will be more effectively dealt with by the local planning authority based on robust and up-to-date evidence.

Policy T5

The above policy states that any residential development and major non-residential development more than 1,000 m2 will be required to make provision for enhanced public transportation through a planning obligation or CIL payments.

Whilst this provision is acceptable in principle, any financial contributions can only be made in accordance with paragraph 204 of the Framework which states, ‘Planning obligations should only be sought where they meet all of the following tests:

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1. They meet a clear and proportionate planning need.
2. They are necessary to deliver the development.
3. They are specific to the development.
4. They are supported by robust evidence.
5. They are proportionate to the size and scope of the development.
6. They are enforceable and effective.
7. They do not breach any existing legal obligations.
8. They do not conflict with existing planning policy.
9. They are consistent with national planning policy and guidelines.
10. They are cost-effective and cost-neutral for the developer."

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9. They are consistent with national planning policy and guidelines.
10. They are cost-effective and cost-neutral for the developer."
- **Necessary to make the development acceptable in planning terms;**
- **Directly related to the development; and**
- **Fairly and reasonably related in scale and kind to the development.**

Contributions must be based on up-to-date, robust evidence of need and cannot be used to make up the funding for desirable infrastructure, or support the provision of unrelated items.

**Policy T6**

The above policy states that the provision of a secure parking area for up to 12 service buses will be sought as part of any major development along or off London Road.

Whilst noting the benefits of providing a parking area for buses, which in turn will result in increased patronage on local bus services, this should not be at the expense of any major development proposal. The Steering Group should not set onerous policy obligations that could place an undue burden on the ability of developers to deliver sustainable development viably. Developer contributions should only be required where they are necessary to address the unacceptable impacts of a development and so directly related to the impacts of the proposal that it should not be permitted without them. We do not consider this to be necessary to development and should therefore not be used to make up the funding or provide an area of land for desirable infrastructure and the provision of unrelated items.

In its current form policy T6 is inconsistent with basic conditions (a) and (d).

**Policy T7**

The policy above states that any residential development and major non-residential development more than 1000m2 will be required to contribute to the improvement and enhancement of the Public Rights of Way network throughout the town and surrounding areas through a planning obligation or CIL payment.

Gladman reiterate the comments made to policies T5 and T6. Financial contributions must meet all of the tests outlined in paragraph 204 of the Framework and cannot be used as a funding gap to provide infrastructure for unrelated items e.g. a public right of way which is removed from the proposed development. Further the continued use of CIL payments is unnecessary and should be deleted from the CNNP. Once a CIL charging schedule is in place, developments will be required under statute to provide the relevant level of contributions.

Gladman recommend that it would be more appropriate to delete any reference to CIL and instead provide commentary that will inform the local community the process of CIL.

**Policy B1**

Gladman recognise the importance of protecting historic assets, this policy seeks to protect the parish’s historic heritage assets and their settings, both above and below grounds. This policy further states that development proposals that affect non-designated historic assets will be considered taking account the scale of any harm or loss and the significance of the heritage assets set out in the NPPF.

This requirement should be dealt with in strict accordance with the requirements set out in the Framework. We consider that the application of national policy requirements is more suited to delivering this policy and will be appropriately dealt with by West Oxfordshire District Council.

Gladman recommend that policy B1 be deleted from the CNNP.

**Policy B2**
The above policy states that the special character of Chipping Norton’s conservation area should be preserved or enhanced and will be supported if it meets the criteria set out under this policy. This policy further states that major, minor and landscape views within, into and out of the area are to be preserved or enhanced. When proposing policy provisions that place the onus on developers to meet certain criteria and standards outside of that normally arising, the Neighbourhood Plan must ensure that its requirements are fully evidenced and justified. The application of design rules typically applied within the conservation area outside of this designation are not justified and may result in a policy which could effectively act to prevent future sustainable growth opportunities being delivered.

In its current form Policy B2 is inconsistent with basic conditions (a) and (d).

**Policy B3**

This policy states that residential development should meet a range of households’ needs. Given that the requirements set out under this policy are consistent with the requirements expressed in the PPG we therefore recommend that policy B3 be deleted as it merely serves to repeat national planning policy and guidance.

**Policies B6 and B7**

The above policies relate to the provision of custom build dwellings. Policy B6 states that developments over 50 units in size will be required to allocate 5% of dwelling plots for self and custom builders. Policy B7 adds further requirements that the plots will be made available and marketed to WODC in the event that these sites remain unsold.

The above policy goes over and above the requirements of Neighbourhood Planning. Whilst we support and encourage the provision of self-build development, we believe that this should be at the developer’s discretion. In its current form the above policies are too prescriptive and the CNNP should not be progressed with a policy that serves as a ‘general rule’ governing all self-build development i.e. all developments over 50 dwellings are required to deliver 5% as self-build housing.

The justification of this policy must be based on robust evidence through a register of interested parties. This approach is supported by PPG (Reference ID: 2A-021) which states, ‘Plan makers should, therefore, consider surveying local residents, possibly as part of any wider surveys, to assess local housing need for this type of housing, and compile a local list or register of people who want to build their own homes.’ The CNNP refers to a number of studies at the national scale and evidence collected at the District level. However there is no assessment of the local need for this type of development or parties who are interested in self-build development within Chipping Norton. At this time there is no sufficient or robust evidence to support the requirements of this policy.

Furthermore, the requirement that these policies will be marketed to WODC or a housing association prior to being built out by a developer places undue policy burdens on development to be delivered viably in accordance with paragraph 173 of the Framework. We therefore recommend the deletion of Policy B7.

The CNNP should seek to support the development of self-build housing without placing unjustified policy burdens on their delivery.

**Policies B8, B9, 10, 11 and 12**

Policy B8 states that all development proposals should provide adequate storage for bicycles as laid out in the Code for Sustainable Homes Technical Guide November 2010 or future equivalent. Policy B9 states that new development should strive for the highest possible energy efficiency standards. Policies B10 – B12 relates to the provision of water efficiency measures to alleviate the risk of flooding and water recycling techniques.

Gladman would like to take this opportunity to make the Steering Group aware that the Code for Sustainable Homes has since been abolished under the Deregulation Act 2015 which obtained Royal
Assent on 30th March 2015. The written statement to parliament (dated 27th March 2015) makes clear that local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Neighbourhood Plans any additional local technical standards or requirements relating to the construction, internal layout or performance of new developments, including any policy requiring any level of the Code for Sustainable Homes to be achieved by new development. Furthermore, the written statement makes clear that the optional new national technical standards should only be undertaken through new Local Plan policies based on a clear up-to-date assessment of need. Neighbourhood Plans should not be used to apply the new national technical standards.

Given the above, this is a matter that should only be dealt with by the local planning authority. Any reference to the Code for Sustainable Homes should be removed from the CNNP. This policy is inconsistent with Basic Conditions (a), (d) and (e) and may subject the CNNP to judicial review proceedings.

**Strategic Environmental Assessment/Sustainability Appraisal**

The adequacy of a Strategic Environmental Assessment/Sustainability Appraisal (SEA/SA) goes to the core compliance of basic condition (f) which requires strict adherence to the requirements of the Strategic Environmental Assessment Directive and implementing UK Regulations.

The Screening Opinion produced by West Oxfordshire District Council led to the conclusion that the Plan is not likely to have any significant environmental impacts and, therefore, an SEA is not required.

Gladman contend that the CNNP should be tested with significant SEA-level scrutiny. The Scoping Opinion states that the emerging West Oxfordshire Local Plan has been subject to extensive sustainability appraisal in conformity with the requirements set out by the European Directive on Strategic Environmental Assessment and the Environmental Assessment of Plans and Programmes Regulations 2004. The Council’s Local Plan (including its SA) has only recently been submitted for Examination and the outcome of whether the Local Plan/SA meets the tests of soundness as required by paragraph 182 of the Framework is not yet known. Therefore, the presumption that the CNNP does not require an SEA is fundamentally flawed. Gladman submit that the CNNP be tested with significant SEA-level scrutiny. The Steering Group should, as of now, commence work on an SEA/SA to test the environmental effects of implementing the plan and all reasonable alternatives.

Although PPG indicates that Neighbourhood Plans do not require an SA of their proposals, preparing an SA can help demonstrate how the CNNP will contribute to the achievement of sustainable development, a Neighbourhood Plan Basic Condition. Therefore, the guidance on SA for Local Plan’s should be referred to (PPG, Reference ID 11-026). The PPG makes clear at paragraph 007 (Reference ID: 11:007) that an SA should meet all of the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004.

Legislation from the Environmental Assessment of Plans and Programmes Regulations 2004 makes clear at paragraph 12 (2) ‘The report shall identify, describe and evaluate the likely significant effects on the environment of – (a) Implementing the plan or programme; and (b) reasonable alternatives taking into account the objectives and geographical scope of the plan or programme (our emphasis).’

Gladman submit that it is of critical importance that the Steering Group produce an SA/SEA to test all reasonable alternatives, including whether a pro-growth scenario in line with the requirements of the Framework is capable of being delivered. If it is found that a higher level of growth can be delivered it should be this figure the CNNP should seek to deliver.

**Conclusions**

Gladman recognises the role of Neighbourhood Plan’s as a tool for local people to shape the development of their local community, however it is clear from national guidance that Neighbourhood Plan’s must be consistent with national planning policy and the up-to-date strategic requirements of the wider local authority area.
Through these representations, Gladman have highlighted a number of significant concerns with the Neighbourhood Plan as proposed. The CNNP contains a series of flaws not only in its application of local and national policy, but lacks clear, robust and up-to-date evidence to support a number of its objectives and policies. A number of areas contained within the Neighbourhood Plan need to be addressed through a fundamental overhaul to the development strategy. Failure to do so will likely result in the Plan being found unable to meet the basic conditions if progressed in its current form to Independent Examination.

The CNNP contains a number of matters which contravene the following basic conditions:

(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State,

- The strategy as proposed by the CNNP’s vision, objectives and suite of policies, including their supporting text, actively seek to constrain the delivery of sustainable development. The approach taken throughout the Neighbourhood Plan is contrary to the entire ethos of the Framework and has no regard to the need to significantly boost the supply of housing or the presumption in favour of sustainable development.

- The CNNP has no regard to the advice and guidance contained in the PPG.

(d) The making of the order contributes to the achievement of sustainable development,

- A number of policies throughout the CNNP actively seek to constrain the ability for sustainable development to come forward and are used as mechanisms to prevent future sustainable growth without regard to the district’s housing needs.

(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area (or any part of that area)

- The CNNP lacks a credible evidence base. There is no up-to-date adopted development plan to which the CNNP can be based or tested against.

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

- No SEA/SA has been undertaken as part of the CNNP process. The CNNP should be tested with significant SEA-level scrutiny and should be able to identify, describe and evaluate the likely significant effects on the environment and all reasonable alternatives.