

Councillor Watkin
Burton Green NDP Steering Group Chair



VIA EMAIL

26559/A3/SJ/EP/KV/bc

27th January 2020

Dear Councillor Watkin,

REPRESENTATIONS TO THE DRAFT BURTON GREEN NEIGHBOURHOOD PLAN (REGULATION 14 CONSULTATION)

We write on behalf of our Client, IM Land and welcome the opportunity to respond to the Draft Burton Green Neighbourhood Plan (the 'draft plan'). We respond in respect of IM Land's land interest at Land East of Cromwell Lane ('the Site') which falls within the Neighbourhood Plan area.

The Burton Green Neighbourhood Plan will need to demonstrate it has met the 'Basic Conditions' as set out in Paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (alongside procedural compliance matters). In order to meet the Basic Conditions, the neighbourhood plan must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area (in this case, the Warwick District Council Local Plan, 2017);
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters (namely the plan not breaching the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017).

Our representations are submitted with these Basic Conditions in mind. We set out our response to the Neighbourhood Plan consultation in chronological order below. This represent is accompanied by 'Cromwell Lane: Landscape and Visual Appraisal with Green Belt Review' (January 2020).

Objective 2: Agricultural Land and Draft Policy EL1- Green Infrastructure

Agricultural Land

Objective 2 of the draft plan is 'Agricultural Land: The [plan] should protect and, if possible, enhance the productivity of the agricultural land in the [plan] area.'

Under 'Agricultural Land', draft policy EL1 states that the use of agricultural land for development will only be considered in the following specific circumstances:

- There is an objectively assessed strategic requirement to provide a site within this [neighbourhood plan] in some future version of the Warwick District Council Local Plan;
- The requirement cannot be met through infilling within the development boundary; and
- There are no brownfield sites within the [neighbourhood plan] recorded in the Brownfield Land Register that may otherwise be suitable for development."

Given that the neighbourhood plan area of Burton Green encompasses areas of agricultural land within the Green Belt, the relevant national planning policy in relation to this policy designation needs to be taken account of. The overall development strategy for the local plan area is a strategic matter to be considered through the Warwick District Local Plan, which the Neighbourhood Plan should be in general conformity with. In accordance with the NPPF (paragraph 136) if a need to amend Green Belt boundaries in specific location, or remove a specific site from the Green Belt for development, has been identified within the strategic policies of the local plan for the area (justified by the exceptional circumstances as set out below) then it should not be subject to further conditions that may restrict its ability to come forward via non-strategic policies of neighbourhood plans. If any non-strategic policies for guiding the selection of development sites via neighbourhood plans are provided, they should be in conformity with the NPPF.

It is considered that this policy does not have due regard to the NPPF (NPPF, paragraphs 137 and 138) with regards to changes to Green Belt boundaries. Paragraph 137 states that in considering whether or not 'exceptional circumstances' exist to justify changes to Green Belt boundaries the strategic policy-making authority should examine all other reasonable options for meeting the identified need for development and account will be taken of whether the strategy:

- Makes as much use as possible of suitable brownfield sites and underutilised land;
- Optimises the density of development in line with the policies in chapter 11 of the Framework;
- Has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development.

Paragraph 138 of the NPPF goes on to state that **"when drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be taken into account"**. The principle that sustainable development should be of paramount importance has been reinforced by the findings of Local Plan examinations, namely that of the Lichfield District Local Plan (2015) wherein the Inspector identified in his report **"I can find no justification in the Framework, in Planning Guidance...for the proposition that Green Belt land should be released only as a last resort. This would be to accept that sustainability is the servant of Green Belt designation – which it is not. On the contrary, as has already been established, the duty in determining Green Belt boundaries is to take account of the need to promote sustainable patterns of development."**

More recently a High Court judgement (Compton Parish Council & Ors v Guildford Borough Council & Anor [2019] EWHC 3242 (Admin) (04 December 2019)) in relation to the Guildford Local Plan (2019) also identifies that 'exceptional circumstances' for the release of Green Belt land in relation to the meeting of housing needs can take into account the nature and degree of the need, alongside considerations of why the need cannot be met in sequentially preferable sites; the impact on the functioning of the Green Belt; and what other advantages sites released from the Green Belt might bring, for example, in terms of a sound spatial distribution strategy.

Therefore, the existence of brownfield sites and/or infilling opportunities is not the only consideration to be borne in mind in considering the 'exceptional circumstances' for the release of Green Belt land. Wider sustainable development considerations should be taken into consideration. It is also noted that the most recent iteration of the Warwick District Council Brownfield Register (2019) does not identify any sites within the Burton Green Neighbourhood Plan area, and no additional sites are identified in the draft Plan itself. This would indicate that there are limited infill and/or brownfield opportunities available, so alternative sites will need to be considered in the future to meet local housing needs.

In conclusion it is considered that Objective 2 of the draft plan and this element of draft policy EL1 should be removed as the principles of them do not have due regard to national planning policy.

Trees and Hedges

The draft policy states that **“Development must take into account the importance of veteran and mature trees and ancient hedgerows. Development which adversely affects such trees or hedgerows will not be supported unless there is a net gain in trees and hedge planting.”** It also states that any proposals which adversely affect trees and woodlands will be resisted and that **“any plan involving the removal of the linear tree and hedge wind-breaks shown in Map 6 will be resisted if there is active agricultural activity within the immediate vicinity.”**

The NPPF (paragraphs 170 and 174) provides for the protection of habitats, including trees and hedgerows including net gains. However, it is considered that these policies requirements should be caveated with a further reference to proposals being supported if there are other suitable mitigation or compensation measures being provided, so as not to unduly restrict otherwise sustainable development in the area. This would be in accordance with the NPPF (paragraph 175) which allows mitigation and compensation to be considered as part of the decision-making process and the NPPF (paragraphs 8-9) principles of achieving sustainable development overall, taking account of local circumstances.

Public Rights of Way

The draft policy states **“the existing footpath network...should be preserved and enhanced wherever possible. Any development which adversely affects footpaths, or the amenity of the users of these footpaths, will not be supported.”** This policy should be more positively worded to state that ‘support will be given to opportunities that provide enhancements to the existing footpath network (and the amenity of its users)’ in line with paragraph 98 of the NPPF. It should also provide further flexibility to state that **“the existing footpath...should be preserved and enhanced wherever possible, or suitable mitigation measures provided”** so as not to unduly restrict otherwise sustainable development in the area, in accordance with national planning policy.

Draft Policy EL2- Local Green Spaces

It is noted that the Site was previously identified in a working draft of the Neighbourhood Plan (March 2019) as a Local Green Space designation via Policy EL2 Local Green Spaces (site reference GS1). This proposed designation has now been removed in the current draft consultation Neighbourhood Plan¹ and the Plan is supported by an ‘Evidence, Reasoning and Justification Document’ which details the evidence for the updated Local Green Space designations. This updated position is supported on the basis that there is no justification for the designation of the Site for a Local Green Space, as per the criteria for such designations set out in the NPPF (paragraph 100). This states that a Local Green Space designation should only be used where the green space is:

- a) In reasonable close proximity to the community it serves;
- b) 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
- c) Local in character and is not an extensive tract of land

All these criteria should be met to justify a designation. The National Planning Practice Guidance (PPG) provides some further advice on the application of the criteria. Table 1 below sets out a clear evidence base for why the Site should not be considered as a Local Green Space now, or in the future according to the NPPF and considering the PPG.

Table 1. Supporting commentary for Land East of Cromwell Lane not warranting a Local Green Space designation

NPPF Criteria	Commentary
a) Proximity to the community it serves	Whilst the site lies adjacent to the existing settlement edge it lies to the rear of existing residential gardens; is privately owned; and is not publicly accessible (bar a public right of way that crosses through the site). It does not therefore serve the community.

¹ The Neighbourhood Plan Steering Group meeting minutes of 13th May 2019 state the group agreed that the Electricity Sports Ground adjacent to Cromwell Lane does not meet the NPPF criteria and should not be included in the local green spaces.

<p>b) Demonstrably special and holds a particular local significance including:</p> <ul style="list-style-type: none"> - Beauty - Historic significance - Recreation value - Tranquillity - Wildlife 	<p>The site is not subject to any national designations that would suggest any special importance of the site related to these criteria.</p> <p>The site not identified within the Warwick District Local Plan (2017) as holding any specific importance related to these criteria by virtue of policy designations.</p> <p>It is understood that the site formed a historic playing field, but that use has expired and it does not provide any recreational benefits to the local community (bar the public right of way that crosses over a small portion of the site).</p> <p>There are some areas of woodland and hedgerows of local interest, but these do not warrant any special significance being assigned to the site overall.</p> <p>Please see the accompanying 'Cromwell Lane: Landscape and Visual Appraisal with Green Belt Review' (January 2020) for more detailed information on the site characteristics (including its limited contribution to the Green Belt) which further demonstrates there are no special features of particular local significance warranting a Local Green Space designation.</p>
<p>c) Local in character and is not an extensive tract of land</p>	<p>There is no threshold for what is to be considered 'local' or 'extensive' with each site to be considered on its merits, based upon the local context. It is considered that in the context of this neighbourhood plan area the focus should be on those spaces reflecting the local scale of the plan, represented by proposed Local Green Spaces 1 and 3 for example (constituting a village green and playground).</p>

Objective 1: Valued Landscapes and Draft Policy EL4- Valued Landscapes

Objective 1 of the draft plan states 'Valued Landscapes: The [plan] should ensure the preservation of the much-valued views of the surrounding open countryside and protect the woodlands, hedgerows and wildlife habitats in the [plan] area.'

The draft policy EL4 refers to 'Valued Landscape Views' which are identified on Map 8 and in Table 1 of the draft plan. The draft policy sets out that **"proposals which would have an adverse impact on these valued landscapes will not be supported"**. In addition, **"within the designated views, new developments should make every effort to:**

- **Have rooflines below the horizon wherever reasonably feasible**
- **Not obscure the view of any building when viewed from any points along the designated view baseline, shown as an extended blue line in the map."**

In relation to views V2, V3 and V5 in particular it should be recognised that there is a significant housing allocation along Westwood Heath Road identified as part of the Warwick District Local Plan (2017). Policy DS11 of the Warwick District Local Plan identifies Burton Green as a Growth Village and Policy DS20 identifies growth directions south of Coventry covering Burton Green, with Site H42 Westwood Heath to provide 425 dwellings and Site H24 Burrow Hill to provide 90 houses.

Site H42 is the subject of a hybrid planning permission (reference W/17/2357) for the erection of up to 425 dwellings (detailed first phase of 129 dwellings with the remainder of the site being outline including details of access), convenience store, formal and informal open space, infrastructure provision and means of access onto Westwood Heath Road and Bockendon Lane, granted October 2018. Several discharge of condition applications have also been submitted/and or approved. Site H24 is the subject of full planning permission (reference W/17/2086) for 90 dwellings with the provision of access plus all other associated infrastructure and enabling works, granted May 2018 (and it is understood this site is now under construction). Clearly, these developments will alter views in the short term and the evidence base underpinning the Neighbourhood Plan objectives and policies does not reflect this. The evidence and plan policies should acknowledge and reflect the fact that the views identified will change as a result of these developments in the short term.

The NPPF (paragraph 127c) states that planning policies and decisions should ensure that developments “are sympathetic to local character and history, including...landscape setting, whilst not preventing or discouraging appropriate innovation or change...”. The principles of the draft policy EL4 should reflect this, particularly the ability for these elements to change. It is considered that paragraph 6.5.4 of the draft policy should be removed on the basis that paragraph 6.5.5 provides a series of considerations for new developments to take into account to address their impacts upon the views. Paragraph 6.5.4 does not provide any further value in terms of how to assess whether or not a proposal will have an adverse impact on the views; it merely provides a restrictive policy approach which is not in accordance with national planning policy.

Section 6.0 ‘Visual Appraisal’ of the accompanying ‘Cromwell Lane: Landscape and Visual Appraisal with Green Belt Review’ (January 2020) provides a more detailed appraisal of the changing nature of these views and illustrates that development of the Site would not impact upon them. It also notes that the draft Policy EL4 appears to confuse valued views with valued landscapes (paragraph 6.11) which should be considered further in the next iteration of the draft Plan.

Draft Policy IH2- Parking Provision

The draft policy states **“all new houses must provide at least one parking space per bedroom per property”** with no flexibility provided for a site by site approach. This is partly in excess of the requirements set out in the Warwick District Council Parking Standards Supplementary Planning Document (2018) which specifies parking standards of one allocated space for 1 bedroom properties; 2 allocated spaces for 2/3 bedroom properties; and 3 allocated spaces for 4+bedroom properties. The Supplementary Planning Document also provides flexibility for greater or less provision where justified by site specific circumstances.

Part of the policy justification is to minimise disruption caused by off street parking. The NPPF (paragraph 105) states that if setting local parking standards the policies should take into account a range of factors including the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; local car ownership levels; and the need to ensure adequate provision of spaces for charging plug-in and other ultra-low emission vehicles. This justification for the draft policy within the supporting ‘Evidence, Reasoning and Justification Document’ does not appear to fully reflect these considerations.

The draft plan also states that the purpose of the policy is to **“weight the economics of the housing mix towards smaller dwellings- which supports our plan policy”**. Whilst the policy sets out that parking standards are not a strategic issue in the Warwick District Local Plan (2017) and the Neighbourhood Plan can therefore set its own parking standard, the thrust of the policy is also to influence the housing mix on future development sites i.e. seeking to deliver a larger proportion of smaller dwellings. It is considered that the housing mix is a strategic policy consideration and that the Neighbourhood Plan should be in conformity with strategic policies set out in the Warwick District Local Plan (2017) on this matter.

Policy H4 Securing a Mix of Housing of the Warwick District Local Plan (2017) states that **“the Council will require proposals for residential development to include a mix of market housing that contributes towards a balance of house types and sizes across the district, including the housing needs of different age groups, in accordance with the latest Strategic Housing Market Assessment.”** It also provides for scenarios where it may not be appropriate to secure the full housing mix on site e.g. due to physical constraints and locational, or in rural areas where there is an up to date local housing needs assessment that indicates a different mix is required. The Warwick District Council ‘Provision of housing mix’ guidance (2018) sets out the current position which is for 5-10% as 1 bed properties; 25-30% as 2 bed properties; 40-45% as 3 bed properties; and 20-25% as 4 bed properties.

Paragraph 4.48 of the explanatory text to Policy H4 states **“in rural areas, developments will be expected to provide a mix of housing in accordance with a local village or parish housing needs assessment, where an up-to-date survey exists. If no such survey exists, the housing mix should reflect the district-wide assessment of need. If the scheme is able to meet all the needs identified in the village or parish assessment, the balance of homes should reflect the district-wide assessment of need.”**

Burton Green Parish undertook an updated Housing Needs Survey in 2018 to support the Neighbourhood Plan. Based upon six respondents who have current unmet housing needs the survey identifies that all of the respondents want owner-occupied market homes (although one of these may not be able to access the market). Of these two respondents require a 4 bed property; two respondents require a 3 bed property; and two respondents require a 2 bed property.

The District wide and local evidence shows there is not just demand for smaller properties in the District and local area. As per Policy H4 of the Warwick District Local Plan (2017) the District wide and local housing surveys are to be regularly updated in order to inform local housing mix requirements. The mix required locally may therefore also change over the plan period. A minimum parking standard with no site by site flexibility could restrict the ability of the plan to respond to current and future local needs for housing mix.

In order for the basic conditions of being in general conformity with the strategic policies for the area and contributing to sustainable development overall to be met, the minimum requirements for parking standards that are seeking to influence the housing mix on site should be removed, or at the very least the policy wording should be amended to provide flexibility for a site by site approach that allows the minimum standard to be deviated from dependent upon the site specific circumstances.

Draft Policy IH3- Density of Development.

Whilst Draft Policy IH3 states that housing density should be assessed on a site by site basis, Draft Policy IH2 will clearly influence the density of development across the neighbourhood planning area via minimum parking standards. It would appear there is a conflict between these two policies and that without a site by site flexible approach to the minimum parking standards specified in Draft Policy IH2 the ability for site by site approach to housing density to be implemented would be limited.

Draft Policy IH3 also states that new developments should **"not adversely affect the current viewpoints."** In relation to this please refer to comments made in respect of Draft Policy EL4 with regards to the changing nature of the identified viewpoints.

Draft Policy IH4- Use of Renewable Energy

This draft policy expects all new developments to **"be designed to the highest possible sustainable standards in order to minimise carbon emissions, minimise energy consumption, pollution, flood risk and to increase the proportion of renewable energy"**. It specifies that new developments should **"be designed and orientated so that an adequate proportion of the roof area faces southwards and is suitable for the mounting or incorporation of solar energy equipment."** The supporting text to the draft policy states that buildings **"where less than one third of the total roof area was appropriately orientated and was suitable for solar energy reception would not satisfy this policy expectation"**. The draft policy also requires business sites of more than 1000 square metres and residential sites for 10 units to examine the potential to use renewable heating from local geothermal sources.

The NPPF (paragraph 148) outlines that the planning system should support the transition to a low carbon future in a changing climate. The Warwick District Local Plan Overarching Policy SCO Sustainable Communities addresses this ambition supported via a series of Local Plan policies. However, other than sustainable construction standards for non-residential developments (within Policy CC3) there are no specific targets or requirements for new development. In line with the NPPF, this Policy CC3 also allows for the financial viability of achieving this standard to be taken into consideration as part of the decision-making process.

The NPPF (paragraph 34) states that development contributions should not undermine the deliverability of the plan. Based on the recently updated approach to viability assessments at the plan-making stage (as per National Planning Practice Guidance) this should take into account all of the expected contributions including any design standards or requirements.

This draft Policy IH4 should ensure it does not undermine the deliverability of future development in line with National Planning Policy and the Warwick District Local Plan policies. The current policy wording which 'expects' the highest possible sustainable construction standards and a particular orientation of building roofs should be

amended to 'encourage' or 'support' such standards. This would ensure that the policy is not interpreted as a requirement to achieve higher standards that have not been the subject of a whole-plan viability assessment and which could undermine deliverability of the plan and strategic Local Plan. The plan should acknowledge that a national timetable for higher standards of building energy efficiency and low carbon heating is also being proposed via the 'Future Homes Standards Consultation (2019/20)'.

There does not appear to be any supporting evidence for the preference for developments to examine the potential for geothermal energy sources locally. Whilst this policy only states the potential should be 'examined' is it considered that the renewable and low carbon energy sources potentially serving a development should be determined on a site and development specific basis, taking into account the forthcoming national building regulation updates via the Future Homes Standards.

Draft Policy T1- Sustainable management of private transport

The draft policy states **"all new dwellings must have electric car charging facilities in order to facilitate the transition to sustainable private transport."** The policy should more closely reflect the provisions of the Warwick District Council Local Plan (2017) TR1(d) which requires, *where practical* (emphasis added), the incorporation of facilities for charging plug-in. The Parking Standards SPD (2018) paragraphs 2.27-2.32 also sets out important considerations for the practical implementation of charging facilities and the draft Policy T1 should make reference to this SPD.

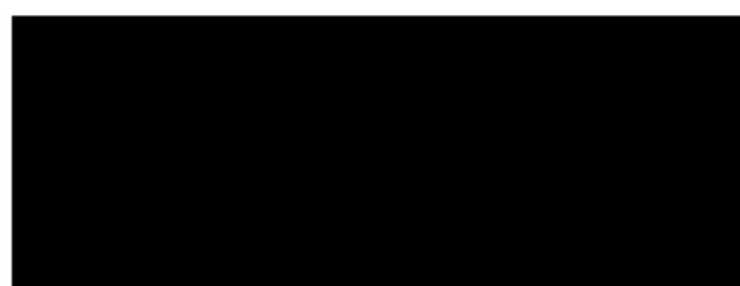
Draft Policy T2 – Provision for Cycleways

The draft policy identifies that the routes **"designated on Map 10 are safeguarded for the upgrading of existing roads, footpaths and trackways to cycleways joining with the existing Greenway. Planning decisions which would adversely affect these current or future routes will be resisted"**. This policy should be more positively worded to support opportunities that provide enhancements to the routes in line with paragraph 104 of the NPPF.

Conclusion

We trust these representations are helpful to inform the next stage of the draft plan. Should you require any clarification of the points please contact me. Please note that we wish to be notified of the Regulation 16 'Local Authority Publicity Period' consultation in due course.

Yours sincerely



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