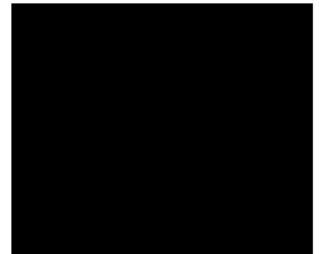


13 November 2020



FAO George Pavey
East Herts Council
Wallfields
Pegs Lane
Hertford
SG13 8EQ



Submitted via email: planningpolicy@eastherts.gov.uk

Dear Mr Pavey,

SUBMISSION DRAFT GILSTON AREA NEIGHBOURHOOD PLAN (2020-2033)

INDEPENDENT EXAMINATION - RESPONSE TO EXAMINER'S NOTE 2

On behalf of our client, Briggens Estate 1 Limited, we write to make formal representations to the Examiner's Note 2 (EN2) (26 October 2020) and the serious concerns raised within this against the statutory "basic conditions" tests set out in the 1990 Planning Act (as amended).

To confirm, our client's land interest comprises Village 7 of the Gilston Area, which is the subject of a submitted outline planning application for the development of up to 1,500 residential dwellings units and supporting uses.

This response follows two previous sets of representations submitted in October 2019 and September 2020 in respect of consultations held on earlier versions of the draft Gilston Area Neighbourhood Plan, the latest being the Submission Draft version, June 2020 (referred to here on in as "draft NP"). We would ask that these are read in conjunction with this letter to provide a more detailed picture of the concerns we have identified and how these align with the three main concerns you have outlined.

Our most recent Comments Schedule (15 September 2020) is cross-referred within this further representation for ease of reference in support of the points made now. We do not intend to repeat the detailed comments provided within our comprehensive set of formal representations submitted in 2019 and September 2020 but instead address more specifically the fundamental considerations raised by the Examiner.

Whilst engagement with the Neighbourhood Plan Group to date has been constructive and valued, we do continue to have concerns that the Submission Draft Consultation Document (June 2020) does not satisfy the "basic conditions" set out under paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended) at paragraph 8(2).

As such, we welcome this opportunity to comment further ahead of the Examination Hearing and have sought to respond to each of the three serious concerns raised within the Examiner's Note, in turn below.

1. General conformity of the draft GANP with national policies contained within the NPPF/ PPG and the strategic policies contained within East Herts District Plan (October 2018)

The National Planning Policy Framework ("NPPF 2019") is clear that "*neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies*" (paragraph 29) with footnote 16 stating that "*neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.*"

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The draft plan acknowledges that it should have regard to and be in general conformity with strategic policies contained within the NPPF (2019) and the adopted EHDC Local Plan (2018). The NPPF is clear throughout its guidelines that plans which form part of the statutory development plan should be precise, succinct and evidenced in order to robustly providing a framework for determining planning applications.

Throughout our previous representations and most recent as submitted in September 2020, we have raised concerns throughout the draft NP in terms of draft policy precision and duplication with other policy documents and the Gilston Area (GA) application documentation themselves. This has resulted in creating conflict with policy aims and objectives set out within the adopted EHDC Local Plan in relation to development at the GA (GA1 and GA2).

Therefore in our view, the draft NP does not achieve precise or succinct policy guidance in accordance with the NPPF guidelines and the adopted district plan which actively supports the determination of the already submitted the planning applications for development at GA. It is difficult to understand the purpose of the draft NP given the strategic guidelines set out in the district plan's adopted policies (GA1); the more detailed design considerations set out within the adopted GA Concept Framework (CF) which in itself has been previously evidenced by numerous technical assessments to underpin design principles; and indeed the now submitted GA applications robustly supported by the respective Environmental Assessments and other detailed technical impact work. The draft NP continuously refers back to the CF on the very basis that the CF does provide some form of design framework in considering broad parameters (as a "benchmark") for the *"location of built development, protection of open space and heritage assets, provision of infrastructure et cetera."*

The draft NP further introduces more detailed policy not supported by technical evidence to include, as one example, prescribing certain density levels in the form of a localised village concept across GA. Such draft policy firstly will not achieve the housing numbers subject to the GA1 allocation and indeed is contrary to the parameters underpinning the submitted GA planning applications which have given very careful and thorough consideration to all aspects of sustainable place-making. These parameters are supported by comprehensive Environmental Assessments and other technical impact assessments to justify the density and place making approaches of the illustrative masterplans at outline planning stage and in accordance with the design principles of the CF.

Another example, relates to references to additional (unsubstantiated) considerations on views and heritage assets which have not been identified within the EHDC Local Plan, the CF, or indeed identified as part of the submitted planning applications. The GA applications are, again, subject to detailed heritage, landscape and design assessments which consider all such aspects in detail and importantly in consultation and agreement with the Authorities and statutory consultees (such as Historic England).

Again, taking another example, there is reference throughout the draft GANP to how the "character" of future development will be judged, with particular emphasis placed on existing settlements (please refer to our comments at pages 11 and 19 of the Comments Schedule, September 2020). This does not align with what is expected of the Gilston Area, as part of the Harlow and Gilston Garden Town and as set out within the Garden City Principles under Policy GA1. This represents a fundamental flaw in the draft NP's ability, at draft policies AG1 and AG6, to fulfil its role at the masterplanning stages in conformity with the strategic policies contained within the adopted EHDC Local Plan.

In essence, the GA planning applications establish the fixed parameters which will be subject to the grant of permission in actively seeking to achieve the aspirations of Policy GA1 and guide detailed design work going forward at Reserved Matters (RM) stage. The draft NP should therefore not be aiming to pre-empt, direct or influence the matters subject to very current detailed planning negotiations as part of the application determination process. The NP may have a role for determining more detailed design aspects as the RM applications come forward by phase/ sub-phase across GA as a whole, however, it must be a document which is entirely consistent with the adopted local plan and the NPPF guidelines as stated above, which we believe it is not as the plan stands currently.

2. Lack of precision and unnecessary duplication of other policies (as material considerations) that apply to the Gilston Area

Whilst it is commended that the NPG has sought to produce a comprehensive draft NP which seeks to draw from the relevant planning policies and documents for the area; in doing so, we agree that it has resulted in a lengthy document which unnecessarily duplicates adopted policies, process and guidance.

As set out within our detailed Comments Schedule (15 September 2020), we have identified a number of instances where in seeking to carry forward specific Gilston Area requirements, the draft NP has actually duplicated existing policy and, in turn, led to errors in reference, conflict and/or repetition within the document itself and, overall, a lack of clarity and precision (contrary to NPPF16 (a)).

As an example, the draft NP seeks to define the role of the Strategic Landscape Masterplan (SLP) which is already established through within the Gilston Area Charter SPD (July 2020) and cited within the CF. Under draft NP policy AG1, it incorrectly states that this will include existing settlements as well as the whole of the Gilston Area (reference is made to this at pages 1 and 10 of our submitted Comments Schedule, September 2020). The SLP will give consideration to the GA proposals' relationship to existing settlements and dwellings, to include the buffers and boundary treatment as properly established through the fixed parameters of the submitted GA applications but it will not masterplan for these existing areas. This draft policy provides incorrect guidance on the role and purpose of the SLP which will form an important backdrop to the determination of future Reserved Matters applications across GA as a whole.

As another example, draft NP policy AG9 in relation to transport infrastructure, requires a separate infrastructure delivery plan whereby this would be clearly a duplication of detailed delivery strategies underpinning the current GA applications. Such delivery matters are also core to the current, detailed planning section 106 negotiations to ensure timely delivery of transport, social and environmental infrastructure as an integral part of the GA development. This is another example of unnecessary requirements set out in the draft NP which would fall out of sync with the planning applications and current negotiation process.

There are many other examples of duplication of other policy and inconsistencies across the draft policies of the NP which are expressed within our detailed Comments Schedule, September 2020 and which we will not repeat here. These draft NP policies range across housing, socio-economic issues, employment, green infrastructure, heritage and strategic views, movement and transport infrastructure delivery and implementation.

On the basis of the above, it is considered that there are a numerous occasions throughout the draft NP, both within draft policy wording and the supporting text, which would prevent a decision maker from being able to apply policy consistently and with confidence. These do not provide additional, or distinctly local levels of detail to the relevant strategic policies and instead present unnecessary repetition and the potential for confusion. This is contrary to NPPF 16(a), NPPF12 and NPPF13 and paragraph 41 of the Planning Practice Guidance (PPG).

3. Infrastructure Delivery

The draft NP places a great level of emphasis on the Harlow and Gilston Garden Town Infrastructure Delivery Plan (April 2019) (the "IDP"). In support of draft NP policy AG8, paragraph 242 states "*The Harlow and Gilston Garden Town Infrastructure Delivery Plan sets out the infrastructure that will be required*". This is a live, non-statutory document which was prepared and published in the absence of detailed impact assessments which now support the GA applications. Section 3.3 of the draft IDP confirms that "*The IDP is a live document and will be updated over time; when published or reviewed it is based upon the best available evidence at the time of publication or review.*" As a working document it has now been superseded by more detailed and reliable impact assessments which also inform the submitted delivery strategies in support of the GA planning

applications. The weight attributed to the IDP is therefore very limited and this should be reflective of this in decision-making.

It is therefore concerning that the draft NP places so much reliance on this draft IDP. The submitted outline planning applications are supported by individual, detailed IDPs (which have been subject to detailed discussions with EHDC, HCC/ ECC and other key stakeholders). These delivery strategies identify the village specific and Gilston-area wide items of infrastructure that are required to support the GA development. This includes transport, social and community, utility and green infrastructure items. The financial contributions and timings for these are being agreed through detailed section 106 negotiations with EHDC as the determining Authority and HCC and ECC as the highway authorities (alongside other Garden Town Partners). These individual IDPs set out broad development triggers in terms of expected infrastructure delivery and indeed detailed section 106 discussions and negotiations with the authorities are enabling these triggers and thresholds to be refined which will form part of the section 106 agreement. It is therefore very important that the draft NP does not pre-empt any of this process.

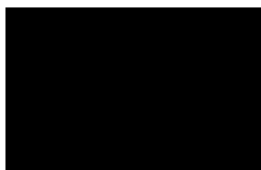
Further, such provisions and/or obligations to be secured through a S106 agreement are legally required to be compliant with CIL Regulation 122 and meet the tests set out under NPPF56. Draft Policy EX1 and its supporting text are open-ended in seeking means of improvement to existing settlement/community needs which are not directly related to the development and would not satisfy the relevant tests (see also reference to pages 35 to 37 of the Comments Schedule, September 2020).

Summary

We trust the above is helpful in setting out our client's continued concerns regarding the draft NP. This is with a particular emphasis on the principle role of a Neighbourhood Plan in effectively guiding future detailed stages of the planning process. The draft NP needs to be clear that it has a role to be objective, informed by evidence, in shaping, directing and aiding the delivery of development within the area over the longer-term. We have identified areas where we do not consider as the draft plan stands that it achieves this fundamental aim which, in turn, results in conflict with NPPF/PPG guidelines, the adopted development plan and the "basic conditions" tests set out in the 1990 Act.

Should you have any queries or further clarifications please do not hesitate to contact me . Otherwise, we look forward to attending and the forthcoming Hearing on 19 November 2020.

Yours sincerely,



Jane Barnett
Director
Planning