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Our Ref : CAM/228983.1
Your Ref :
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Dear Sirs

Quorn Neighbourhood Plan 2018-2036 Submission Version - Representations on behalf of Swithland Homes

We act on behalf of Swithland Homes ("our client") to submit legal representations to the submission stage consultation of the Quorn Neighbourhood Plan ("the draft QNP").

We have been provided with a copy of the representations made by Heaton Planning on behalf of our client and have reviewed the available papers which has led to the submission draft QNP.

For the reasons set out below, we have serious concerns with the ability of the submission draft QNP to comply with the basic conditions set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") and with the process adopted to date by the Neighbourhood Plan Advisory Committee ("NPAC").

The concerns largely arise from the withholding of information by NPAC, including essential information relating to potential housing allocations such as pre-submission Strategic Sustainable Assessment proformas, site plans, illustrative masterplans, and/or technical reports from our clients and the wider community. There is also concern with the fluid nature of the methodology for site selection and associated scoring as well as the inability to ascertain whether the draft QNP is based on robust evidence or objective assessment.

Basic Conditions

Paragraph 8 of Schedule 4B of the 1990 Act requires a draft neighbourhood plan to meet 'basic conditions' one of which being that it is appropriate to make the order having regard to national policies and advice contained in guidance issued by the Secretary of State. The draft plan must also contribute to the achievement of sustainable development.

It is clear that the draft QNP fails to accord with basic conditions in that it fails to have proper regard to national policies and advice contained in guidance issued by the Secretary of State, namely the Planning Practice Guidance.

The approach of the NPAC has prevented our clients and all other members of the community who are interested in, and affected by, the draft QNP, from playing an active role in preparation of the draft QNP by a refusal to release vital information on the potential site allocations. This is contrary to paragraph 15 of 'Neighbourhood Planning' in the PPG.

Paragraph 47 of the PPG requires the NPAC to be *"inclusive and open in the preparation of its neighbourhood plan... and ensure that the wider community:*

- *Is kept fully informed of what is being proposed;*
- *Is able to make their views known throughout the process;*
- *Has opportunities to be actively involved in shaping the emerging neighbourhood plan;*
- *Is made aware of how their views have informed the draft neighbourhood plan.*

The NPAC's decision to withhold information on potential allocations demonstrates a lack of openness and transparency, fails to enable the wider community to be kept informed and prevents the opportunity of the wider community from becoming actively involved in shaping the emerging neighbourhood plan given that they did not have necessary information to reach an informed view. The draft QNP is directly contrary to the PPG in this regard.

Paragraph 40 of the PPG requires *"proportionate, robust evidence"* to support choices made and the approach taken to inform the draft QNP. It requires the evidence to be drawn upon to explain succinctly the intention and rationale of the policies. Unfortunately, there is a distinct lack of evidence to justify the choices made in relation to the proposed allocations given that the NPAC has consistently refused to release vital information on the emerging allocations.

Particular concern arises with regard to the policy H2: 'Reserve Site' which seeks the site adjacent to Buddon Lane to be a reserve housing allocation but criterion c) of the policy states that access for the site is not to be taken from Buddon Lane. There appears to be no means of access to the highway and it is impossible to see how this site could be deliverable or achievable. Policy H2 is therefore simply not supported by appropriate evidence contrary to paragraph 41 of the PPG. It is wholly irrational to allocate a reserved housing site with no evidence of its ability to be accessed and therefore delivered. It is impossible to see how such a policy could contribute to the achievement of sustainable development.

Our clients have substantial concerns with the objectivity of the site selection process from the lack of openness and transparency and by the fluidity of the methodology for site selection and the change in the score for the Armiston Road site at different stages in the process. Further, at the meeting of the Quorn Parish Council on 16 July 2018 it would appear that the decision to approve the pre-submission draft QNP was taken when the Strategic Sustainability Assessment proformas was not available which again raises serious concerns with a lack of openness as well as the validity of the decision to approve the draft being taken when important material considerations do not appear to have been available to inform that decision.

As set out in the representations of Heaton Planning on behalf of our clients, there has been a distinct lack of rigour in the site selection process which is not backed up by objective evidence or assessment. The draft QNP cannot therefore be said to contribute to the achievement of sustainable development.

The draft QNP does not properly have regard to national policies and guidance and fails to contribute to the achievement of sustainable development. It is impossible to see how the draft QNP could progress to referendum without these concerns being addressed.

Other Legal Concerns

The 'Terms of Reference and Governance for Quorn Parish Council Neighbourhood Plan Advisory Committee' sets out the requirements of the NPAC and includes:

Role:

- iii) Liaise with relevant authorities, organisations and identified Stakeholders to ensure the NP is comprehensive and inclusive.*
- iv) identify and implement a wide variety of ways to engage the whole community throughout the process.*

Public Access to Information

- i) The agendas, relevant papers and subsequent minutes of all NP Advisory Committee meetings will be published on the Parish Council website and available for all members of the public to access.*

The 'Quorn Neighbourhood Plan 2018 – 2036 Consultation Statement' identifies the aim of the consultation process as to be "*inclusive and open*" in the preparation of the QNP and "*to ensure that the wider community:*

- Was kept fully informed of what is being prepared;*
- Was able to make their views known throughout the process;*
- Had opportunities to be actively involved in shaping the emerging plan;*
- Was made aware of how their views have informed the draft neighbourhood plan;*
- To "front load" the consultations to ensure that the Plan was fully informed by the views of the residents, businesses and stakeholders;*
- To ensure consultation took place at all key stages, to engage as wide a cross-section of the community as possible and to ensure that the results of consultations were made publicly available*

Our clients therefore had, and continue to have, a legitimate expectation that:

- All relevant papers which have informed decisions of NPAC were available. As a matter of fact, NPAC has refused to release information relevant to the site allocation process;*
- It would be kept fully informed of the draft QNP and have the opportunity to be actively involved in shaping the plan. The failure of NPAC to release necessary information fails to comply with this expectation.*

As a result of the failure to release information at appropriate stages in the preparation of the emerging QNP, our clients' legitimate expectation has breached and our clients' interests have been seriously prejudiced by this failure.

We consider that this legal error in the process leading to the submission draft QNP will lead to the draft QNP to be vulnerable to legal challenge unless appropriate steps are taken to address these errors. In the circumstances of the case, it is considered necessary for a further round of

consultation based on all relevant information being made available to all interested parties to be undertaken.

Conclusions

The draft QNP does not accord with the basic conditions and the process to date has been legally flawed. There are serious legal concerns with the lack of transparency and openness and the ability for members of the public to be actively involved in shaping the plan given that the NPAC has refused to release information which is necessary to enable informed engagement to take place.

It is considered that the only options are for a further round of consultation to be undertaken with all relevant information being made available to all interested parties or for the draft QNP to be recommended by the Examiner for refusal.

Yours faithfully



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