



## **Reg 16 Consultation Response on behalf of J K Land**

### **Introduction**

1. This submission has been prepared on behalf of J K Land in response to the Woodhouse Eaves Neighbourhood Plan Regulation 16 Consultation.
2. J K Land are an interested party to the Neighbourhood Plan following a previous planning application, appeal and subsequent planning application on Land at Maplewell Road, Woodhouse Eaves. The original application and appeal sought outline permission for the erection of up to 50 dwellings and associated infrastructure, open space and landscaping. The most recent planning application, which is currently subject to an on-going appeal, sought the erection of up to 36 dwellings and associated infrastructure, open space and landscaping.
3. The comments set out below comprise constructive observations in relation to the Neighbourhood Plan (NP) and its ability to meet the future needs of residents. These comments are provided seeking to ensure that the evidence base supporting the NP is robust and will deliver the most sustainable development for the existing and future residents of Woodhouse Eaves.

### **Background**

4. A neighbourhood plan is an important document against which all planning applications and appeals must be assessed. Once 'Made', a neighbourhood plan forms part of the Development Plan and benefits from the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 insofar as decisions must accord with the Development Plan unless material considerations indicate otherwise.
5. For a neighbourhood plan to proceed and be 'Made', it must meet certain Basic Conditions. These are:
  - Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
  - 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. This applies only to Orders.
  - 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. This applies only to Orders.

- The making of the neighbourhood plan contributes to the achievement of sustainable development.
  - The making of the neighbourhood plan 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).
  - The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
  - 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.
6. It is also a requirement for a neighbourhood plan to comply with certain legal requirements. In summary, they are whether it;
- Has been prepared by a qualifying body.
  - Has been prepared for an area that has been properly designated.
  - Meets the requirements that they must not include excluded development.
  - Relates to one Neighbourhood Area.
  - Relates to the development and use of land.
7. A neighbourhood plan must have regard to national policies and advice, contained in Ministerial Statements and guidance issued by the Secretary of State, and contribute to the achievement of sustainable development.
8. The National Planning Policy Framework is an important material consideration in both decision taking on planning applications and appeals, and for the purposes of plan making.
9. Paragraph 16 of the National Planning Policy Framework makes clear;
- “Plans should:*
- a) be prepared with the objective of contributing to the achievement of sustainable development;*
  - b) be prepared positively, in a way that is aspirational but deliverable;*
  - c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;*
  - d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;*
  - e) be accessible through the use of digital tools to assist public involvement and policy presentation; and*
  - f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”*
10. Paragraph 31 of the National Planning Policy Framework then makes clear;

*“The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned...”*

11. The Planning Practice Guidance assists further in relation to the requirements of relevant and up-to-date evidence. Paragraph reference 41-040-20160211 states;

*“While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.”*

12. We raise concerns in these submissions that;

- The drafting of the Neighbourhood Plan does not ensure the achievement of sustainable development.
- The Neighbourhood Plan does not comprise of sufficient evidence to demonstrate this it is deliverable and thus not positively prepared.
- The preparation of the policies in the draft Neighbourhood Plan are not underpinned by relevant, up-to-date, adequate and proportionate evidence.
- The Local Planning Authority are yet to issue a complete response to the Strategic Environmental Assessment Screening.

### **Allocation of Residential Development**

13. Policy H1 seeks to allocate a single site to provide 16 dwellings over the plan period. Policy H2 seeks to allocate two Reserve Sites to deliver up to 8 dwellings should additional housing be required over the plan period, as found by the Charnwood Local Plan.

14. J K Land have significant concerns regarding the insufficient allocation of residential development to meet resident’s future needs, the deliverability of the Reserve Sites, an unjustified reliance on windfall development and a lack of transparency leading to decisions.

15. The NP sets out at Paragraph 44 that

*‘The consultation draft of the CBC local plan sets a target for an additional 160 residential units to be delivered through NDP’s in nine of the fourteen “other settlements” between 2019 and 2036. In discussion with Officers from CBC, it has been agreed that a target of around 20 new residential units need to be delivered in Woodhouse Eaves before 2036. Woodhouse has no specific housing target in the adopted Local Plan Core Strategy.’*

16. Para 4.35 of the Preferred Options Consultation (October 2019) sets out that

*'Our plan directs 794 homes to Other Settlements but allocates sites for 634 new homes in these villages. These sites have been identified by seeking to avoid significant adverse environmental effects, ensuring that residents of new homes have access to a half hourly bus service, and avoiding overloading a particular village or group of villages. For the remaining housing development in Other Settlements, we consider that local communities have an important role in identifying sites through neighbourhood plans. We will work with neighbourhood planning groups to set appropriate housing targets in Other Settlements where a neighbourhood plan is to be produced.'*

17. It should be noted that the Preferred Options Consultation is a very early document in the plan-making process and is not a reliable evidence base for plan-making in the NP. The NP should seek to ensure that it accommodates its residents' needs, as well as safeguarding to ensure compliance with any emerging plan, rather than relying on untested documents as evidence.
18. It should be noted that Paragraph 43 of the NP refers to the HEDNA, housing needs for Leicester and the Memorandum of Understanding between Councils to accommodate the shortfall. It should be noted that Leicester's Housing Need has now increased to 18,000 dwellings as a result of the increase in housing need of 35% due to the changes to the Standard Methodology. As a result of the extent of the unmet need, and Charnwood being particularly well-placed to accommodate some of the shortfall, it is not unreasonable to consider that the development strategy is likely to change from the Preferred strategy set out in 2019.
19. As noted above, the plan seeks to allocate a single site to deliver 16 dwellings to meet residents' needs over the plan period which is from 2020-2036. As set out above, at Paragraph 44 of the NP, it is identified that a target of around 20 new residential units will be delivered. There is a lack of transparency on how this number of units has been calculated and also concern that despite the target of 20 dwellings, the NP seeks to allocate a site for only 16 dwellings.
20. A common approach being taken by Neighbourhood Plan Groups seeking to allocate a housing need where there is no up-to-date Local Plan, is to allocate units based on the population of the settlement compared with the Borough. In this instance, the most reliable information on population remains the 2011 Census which confirms that the parish has a population of 2,319 residents, compared with a Borough population of 166,100; equating to 1.396% of the population residing in the Neighbourhood Plan Area. The Housing Need for Charnwood as a whole is 1,082 dwellings per annum, providing a housing need of 17,312 over the plan period of 2020-2036.
21. If the NP was to accommodate sufficient dwellings to meet its own need based on population, (1.396% of 17,312), it would be required to deliver 241 dwellings. Whilst this is only one way to calculate the housing requirement based on population, it demonstrates the likely inadequacy of the housing allocation.

22. Further to the above, Appendix 4 of the NP comprises the Woodhouse Parish Affordable Housing for Sale Assessment. At page 19 the report sets out that a detailed study of housing needs of Woodhouse Parish up to 2024 was undertaken in 2019. The survey has identified an immediate need for 7 Affordable Rented homes, 5 Shared Ownership homes and 10 Open Market homes; a total of 22 dwellings.
23. The housing need survey identifies that there is an immediate need up to 2024 for 22 homes in the Parish, let alone over the plan period which extends a further 12 years up to 2036. This highlights that not only will the proposed housing allocation be insufficient to accommodate the housing need over the plan period, but that it fails to meet the immediate housing need in the Parish.
24. It is acknowledged that the plan seeks to support the main allocation through allocation of Reserve Sites. However, it is highlighted that at page 6 of the Site Sustainability Assessment Report, submitted as Appendix 3 of the NP, states:

*'Following negotiations with the relevant owners it is noted that CBC, the owners of the two garage sites, are intending to undertake a strategic asset management review and do not wish to commit to residential development until the outcome of this review is agreed.'*

*'For this reason the two garage sites at Herrick Road and off Bird Hill Road have been given a reserve allocation site status in the NDP.'*

25. In light of the comments from the landowners, the Neighbourhood Plan Group can have no certainty that the Reserve Sites are deliverable and therefore these are not justified as allocations. To allocate sites which are undeliverable would not ensure that the plan is positively prepared.
26. Notwithstanding issues with the deliverability, Policy H2 Reserve Sites requires that affordable housing is delivered on each of the Reserve Sites despite both being for less than 10 dwellings. This requirement to deliver affordable housing does not accord with current Government planning policy in the National Planning Policy Framework. Whilst the intention is commendable, it is not compliant with national policy and therefore is not deliverable, resulting in insufficient plan-making to deliver affordable homes.
27. It is acknowledged that main allocation and reserve sites are also supported by Policy H4 Windfall Sites which may boost housing over the plan period. It is noted that the supporting text at Paragraph 58 identifies that 'Around 100 additional dwellings have been developed across the Neighbourhood Area over the past 10 years and is likely to continue at a similar rate'. However, the NP does not, nor the supporting evidence, identify the circa 100 homes that have been approved in order to justify a windfall allowance. To the contrary, the supporting evidence, comprising the Housing Needs Report February 2018, prepared by YourLocale, submitted at Appendix 2 of the NP, states on Page 9 that 'There is evidence of a small supply of new build housing with 34 new build residential sales recorded

between 1995 and 2018'. The information in the supporting evidence significantly contradicts the supported text in the NP.

28. Paragraph 70 of the NPPF sets out that:

*Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends.*

29. A reliance on windfall development is not justified in accordance with the requirements of the NPPF as there is insufficient evidence in the SHLAA to demonstrate that sites can come forward, the data of historic windfall rates is inaccurate and there is no commentary on expected future trends.

30. Lastly, J K Land raise concern that the site selection process is not transparent. The Site Sustainability Assessments for the sites have not been published and are not available for scrutiny, with only an overview being provided as an Appendix. This information should be provided as an evidence base to the NP.

31. In light of the above, J K Land have significant concerns regarding:

- the insufficient allocation of residential development to meet resident's future needs with:
  - a lower allocation than the target set by the Local Planning Authority;
  - the Local Planning Authority target being insufficient to meet anticipated population growth in the settlement; and
  - the allocation failing to meet immediate housing needs, let alone over the plan period, as evidenced by their own Housing Reports
- the deliverability of the Reserve Sites,
  - the landowners have not confirmed that the sites are available;
  - the affordable housing requirement does not accord with national policy and is not deliverable
- an unjustified reliance on windfall development;
  - not being supported by evidence in the SHLAA that there are sites to rely upon;
  - inaccurate and misleading information regarding historic windfall rates that are contradicted in their own evidence; and

- no commentary on future expected trends supported by any evidence
- a lack of transparency leading to decisions, both
  - the number of homes required; and
  - the site selection process

### **Affordable Housing Delivery**

32. Policy H5 Affordable Housing seeks to deliver 30% affordable housing on sites of more than 10 dwellings.

33. As set out above, there is an immediate evidenced need for 7 Affordable Rented homes and 5 Shared Ownership homes. With a single allocation for 16 homes, of which at least 5 should be affordable, there plan will not meet the immediate identified affordable housing need, let alone the need over the plan period.

34. It should be noted that the Affordable Housing for Sale Assessment (March 2020), at Appendix 4 of the NP, sets out that:

‘It was recognised that local needs affordable homes could be developed on a ‘rural exception site’, if available, and subject to local support some open market sale homes could be used to cross-subsidise the affordable homes. The alternative to this is that the local homes that are needed are developed as part of a larger development if the opportunity arises and if the needs cannot be met by existing properties.’

35. Despite not allocating sufficient sites to ensure the delivery of affordable housing need, there is no separate policy supporting rural exception sites, which in accordance with national policy, can be cross-subsidized by market dwellings, where appropriate. As such, the plan fails to meet the needs of the residents.

36. It is our assertion that in order to be positively prepared the plan should allocate additional housing sites, including sites that could deliver over 10 dwellings, It is our assertion that this is the most suitable option as the current Local Plan would support rural exception sites and despite this, not a single affordable home has been provided in Woodhouse or Woodhouse Eaves over the plan period. In this instance, the most appropriate way to facilitate the delivery of affordable housing, is to support developments of more than 10 dwellings.

### **Strategic Environmental Assessment Screening**

37. The Basic Conditions set out above include ‘The making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations’.

38. This Basic Condition requires consideration as to whether an NDP breaches or is otherwise incompatible with, EU obligations. In doing so, the following elements of legislation together with the UK statutory instruments implementing them must be considered, these are:

- the Strategic Environmental Assessment Directive (2001/42/EC);
- the Environmental Impact Assessment Directive (2011/92/EU);
- the Habitats Directive (92/43/EEC);
- the Wild Birds Directive (2009/147/EC);
- the Waste Framework Directive (2008/98/EC);
- the Air Quality Directive (2008/50/EC);
- the Water Framework Directive (2000/60/EC); and
- the General Data Protection Regulation (2016/679/EU).

39. Within this wider schedule of directives that may be of particular relevance to the submitted neighbourhood plan the most relevant directive is Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (often referred to as the Strategic Environmental Assessment (SEA) Directive). It seeks to provide a high level of protection of the environment by integrating environmental considerations into the process of preparing plans and programmes. It has direct relevance to the Neighbourhood Plan process.

40. Within this Directive Articles 5 and 8 provide guidance respectively on how the preparation of the environmental report and how it should be taken into account before the plan or programme is adopted. These articles are set out below:

*Article 5*

*Where an environmental assessment is required under Article 3(1), an environmental report shall be prepared in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme, are identified, described and evaluated. The information to be given for this purpose is referred to in Annex I (of the Directive)*

*Article 8*

*The environmental report prepared pursuant to Article 5, the opinions expressed pursuant to Article 6 and the results of any transboundary consultations entered into pursuant to Article 7 shall be taken into account during the preparation of the plan or programme and before its adoption or submission to the legislative procedure.*

41. The 2001 Directive is a rather matter-of-fact document. Guidance for its use in the UK was published in 2005 by the Office of the Deputy Prime Minister ('A Practical Guide to the Strategic Environmental Assessment Directive'). It continues to set out government guidance on this important matter.

42. Its paragraph 5.3 comments about expectations that SEA work should be iterative and have a direct effect on the resulting Plan as follows:



*'The SEA process, including preparation of the Environmental Report, is most effective when started as early as possible, ideally at the same time as the preparation of the plan or programme. SEA will often involve an iterative process of collecting information, defining alternatives, identifying environmental effects, developing mitigation measures and revising proposals in the light of predicted environmental effects. It will be important to identify an end-point where further iterations are unlikely to bring further significant improvements in predicting the environmental effects of the plan or programme'.*

43. Thereafter the Guide sets out the key stages which should be followed (Stages A-D for plan-making purposes).
44. It is noted that the Basic Conditions submitted with the NP identifies that Charnwood Borough Council have determined that a Full SEA is not required. However, the Strategic Environmental Assessment Screening Report Submission Version prepared by Charnwood Borough Council is incomplete with the consultee responses yet to be received. Therefore, it cannot be ruled out that an SEA maybe required.
45. In the event that an SEA is required to accompany the NP, it is not possible to proceed with the examination as the correct procedure will not have been followed. This was found to be the case in the Examination of the Newbold Verdon Neighbourhood Plan, a copy of the Examiner's Report can be found at Appendix 1.
46. Notwithstanding, the final conclusion of the SEA Scoping Report, as set out above, it is our assertion that the NP does not allocate sufficient residential development to meet the needs of the residents of the parish and further housing allocations should be made. If further housing is required, as we anticipate it to be, the SEA screening will have been undertaken on false pretenses and the findings may not be able to be relied upon.

### **Concluding Remarks/Necessary Amendments**

47. This submission has been prepared on behalf of J K Land in response to the Woodhouse Eaves Neighbourhood Plan Regulation 16 Consultation.
48. Having reviewed the Submission version of the Neighbourhood Plan and supporting evidence, J K Land have significant concerns regarding the following:
  - the plan does not allocate sufficient residential development to meet resident's future needs in the immediate or over the plan period;
  - the Reserve Sites which have been identified are not deliverable;
  - the plan seeks to rely on an unjustified windfall allowance;
  - there is a lack of transparency in decision-making with gaps in evidence including the site sustainability assessments and how the housing allocation figure is calculated;
  - the affordable housing need will not be met and there is insufficient policy seeking to do so

- it may be necessary for the plan to be accompanied by a Strategic Environmental Assessment which would require withdrawal of the plan, especially if the housing need is required to increase as the scoping will have been undertaken on false pretenses.

49. In light of the above, at present, it is the view of J K Land that the Neighbourhood Plan does not meet the basic conditions as:

- The drafting of the neighbourhood plan does not ensure the achievement of sustainable development
- The neighbourhood plan does not comprise sufficient evidence to demonstrate this it is deliverable and thus not positively prepared
- The preparation of the policies in the draft Neighbourhood Plan are not underpinned by relevant, up-to-date, adequate and proportionate evidence
- It cannot be certain that the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.

50. Having regards to the above, it is our respectful submission that the plan needs to be withdrawn and reviewed with a view to allocating additional residential development in order to meet the future needs of residents.