

**PLANIT CONSULTING  
TOWN PLANNING & PROPERTY ADVISERS**

**LOXWOOD NEIGHBOURHOOD PLAN  
REPRESENTATIONS ON SECOND DRAFT DOCUMENT  
SUBMITTED IN BEHALF OF: CROWNHALL ESTATES**

**3<sup>RD</sup> DECEMBER 2014**

## **1 Introduction**

- 1.1 These representations have been prepared by Planit Consulting on behalf of our client Crownhall Estates, in respect of the Loxwood Neighbourhood Plan (LNP)- Consultation Draft October 2014.
- 1.2 The points covered within this statement are directly relevant to the stated criteria to be assessed by the Examiner on the Plan, as defined within Schedule 4B, para 8(2) of the 1990 Act, as modified. In order to assess the appropriateness of the LNP, this submission addresses Loxwood Parish's ability to meet housing need as identified in the National Planning Policy Framework (NPPF), its compliance with Government policy and guidance on achieving sustainable development, and its compliance with Chichester District Council's emerging Local Plan Objectively Assessed Housing Need (OAHN). In particular, the seriously flawed methodology of site selection assessment/process is considered. A joint Opinion from two Planning Barristers is submitted as part of our representations and we request this document is considered in conjunction with this 'representation'.
- 1.3 The submission is made with reference being made to an additional potential housing site, Land south of Loxwood Place Farm, which is being promoted for development by Crownhall Estates and which is not one of the identified housing sites within the Loxwood Neighbourhood Plan as currently drawn.
- 1.4 It should be noted that comments were not made at the initial stage of the LNP's preparation as the site had not been identified by our client as being suitable for housing purposes. Subsequently the site has been subject to a planning application, which was refused permission in July 2014, solely on the basis that the site is not one of the identified housing sites within the LNP. In all other respects the site is suitable, and available for development.

## **2 Neighbourhood Plans**

2.1 A Neighbourhood Plan is required, in accordance with Schedule 4B, para 8(2) of the 1990 Act, as modified, to comply with the following Basic Conditions so far as material:

- 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 contained in the Development Plan for the area;
- not breach, and is otherwise compatible with, EU obligations and human rights requirements; and
- ensure that prescribed conditions are met in relation to the plan and prescribed matters are complied with in relation to the proposal for the plan.

2.2 In responding to the resubmitted LNP within this statement we will address these points. In its current form, we consider the document does not comply with the Basic Conditions because the LNP is over restrictive and unlawfully precludes appropriate sustainable development if it is adopted.

### 3 COMMENTARY ON IDENTIFIED CRITERIA

#### ***Is the Neighbourhood Plan Appropriate, Having Regard to National Policies?***

- 3.1 It is considered that the LNP does not currently comply with National Policy because it does not contribute sufficiently to the Objectively Assessed Housing Needs (OAN) for the District. This is true both in terms of the NPPF requirement to meet OAN and the OAN which is identified in the emerging Chichester Local Plan, upon which the LNP is based. In any event, the identified OAN is controversial and subject to change.
- 3.2 The pre-submission draft of the emerging Local Plan required provision for 6973 homes to be delivered in the Plan area between 2012 and 2029 (Policy 4). This equals 410 dwellings per annum. However research indicates that the actual OAN requires the provision of somewhere between 530 and 650 dwelling per annum to be provided.
- 3.3 The NPPF requires local planning authorities to plan to meet their housing needs (para 47):

“To boost significantly the supply of housing, local planning authorities should:

- use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period”

3.4 The LNP will not comply with national policy as identified housing needs will not be met. Paragraph 7.27 of the Draft Local Plan notes '*Policy 5 presents indicative housing numbers to be planned for each parish. These figures should be regarded as providing a broad indication of the potential scale of housing that the District Council and individual parishes will seek to identify through future planning documents.*'

3.5 Paragraph 7.29 continued:

*"Some flexibility will be allowed for minor amendments to housing numbers for individual parishes subject to the detailed investigation and assessment of potential sites through neighbourhood plans and in the Site Allocation DPD. In some cases, suitable sites of 6+ dwellings may come forward as planning applications. Where such sites are permitted, the requirement for additional housing in the parish will be reduced accordingly."*

3.6 Policy 5 set out indicative housing numbers for the parishes in the Plan Area (North) as

|                  |    |
|------------------|----|
| Kirdford         | 60 |
| Lynchmere        | 10 |
| Loxwood          | 60 |
| Plaistow & Ifold | 10 |
| Wisborough Green | 60 |

3.7 These total 200 of the 339 dwellings required in the North Plan area by Policy. The remainder are to be provided by windfall sites.

3.8 The text of the draft Neighbourhood Plan says:

*"The Loxwood parish Neighbourhood Plan will allocate 60 houses on new sites located within the Settlement Boundary defined in accordance with policy two of this Plan."*

The emerging Chichester District Local Plan makes provision for 6973 houses over the plan period 2012 to 2029 with the parishes north of the Plan Area of Loxwood, Wisborough Green, Plaistow and Ifold, Kirdford and Lynchmere, being allocated a total provision of 339 houses. It is proposed that 200 are found from allocated sites with 92 from small site windfall allowance..

The allocated site requirement for the parish of Loxwood is 60 houses over the plan period. “

- 3.9 In Policy 1 the Neighbourhood Plan proposed the allocation of a minimum of 60 houses in Loxwood on allocated and windfall sites:
- 3.10 Policy 4 and 5 of the plan allocate housing on two sites, Land south of Farm Close (Policy 4) and the Conifer Nursery Site (Policy 5).
- 3.11 Based on the emerging Local Plan and the OAN, the allocation of both the total figure of 339 houses in the North of the Plan area is too low and in turn the allocation of just 60 new unit for Loxwood is similarly too low. In the context of an unmet OAN, a higher figure should be allocated within the LNP to meet housing need during the Plan period.
- 3.12 The South of Loxwood Place Farm site is a sustainable and viable option which could be brought forward immediately in order to make an additional contribution to the shortfall in the District's OAN. The site meets all the policy requirements for sustainable development and should be allocated within the LNP.

***Does the Loxwood Neighbourhood plan contribute to the achievement of sustainable development?***

- 3.13 The LNP does not contribute sufficiently to achieving 'sustainable' development because it does not include a sustainable additional housing site, land south of Loxwood Place Farm, which is suitable and capable of development. Rather the Plan resists all development outside the newly identified 'Settlement Area', classing all other land (even if on the village fringe), as rural where development is not appropriate.
- 3.14 This is in contrast to a neighbouring Parish Plans, which recognises that in certain circumstances additional developments may be appropriate and should be allowed. For example the Kirdford Neighbourhood Plan at Policy DS.1: New development on unallocated sites, states that any proposed housing development on unallocated sites will be supported in principle, provided it respects the character and rural scale of Kirdford village. This approach more accurately reflects the need to accommodate the additional housing needs of the District (in addition to the already unallocated 139 homes required during the plan period in the North of the Plan area, for which no sites have been allocated).
- 3.15 Such an approach is wholly appropriate in the circumstances, and a similar policy approach within the Loxwood Neighbourhood Plan would offer a more appropriate form of Policy and would offer a more sustainable approach to development; A feature currently absent from the current LNP.
- 3.16 Notwithstanding a fundamentally flawed site assessment process (considered in detail below) the LNP has not identified any alternative sites over and above the two currently allocated sites, Farm Close and the Conifer Nursery Site. Whilst Farm Close has received a recommendation for approval subject to the signing of a legal agreement, the Nursery site has not yet been the subject of a Planning Application and there is no indication whether or not the site is developable.
- 3.17 The inflexibility of the LNP to recognise that additional housing development may be appropriate during the plan period is not a reasonable or sustainable planning approach.

3.18 The allocated sites propose the development of a total of 60 units, being the currently allocated total for Loxwood. An audit requested by the Local Plan Inspector and carried out by the District Council has already seen the identified figure for housing provision during the plan period increased. Further increases may follow subject to the Inspector's view of the robustness of the audit that was carried out.

**3.19** In these circumstances where the housing allocation is likely to increase significantly (to more closely align with the OAN), there is currently no ability for the LNP to accommodate the additional development. This is poor policy planning and is inappropriate in national policy terms where Councils must identify sufficient housing land to meet the OAN.

3.20 For these reasons it is considered the Neighbourhood Plan as currently written does not comply with the Basic Conditions.



**Is the Plan in general conformity with the strategic policies contained in the Development Plan for the area ? ;**

- 3.21 The LNP does not currently conform with the Local Plan because it does not make a sufficient and objectively assessed contribution to the District's OAN (discussed in detail below). The allocated housing numbers produced through the site allocation and assessment process are incorrect and therefore the LNP is seriously flawed.
- 3.22 Following the JR proceedings a screening direction has been made that a Strategic Environmental Assessment of the plan is not required. It is being checked whether the Development Control officers had authority to make that determination.
- 3.23 There are not considered to be any Human Rights requirements unmet by the plan.

### Criteria for Assessment

- 3.24 The central concern regarding the LNP's current conformity with the Basic Conditions is the site allocation procedure employed by the Parish Council, which underlies the content of Policy 4 and 5 (the 2 site identification policies). It forms the basis for the LNP's contribution to the District's overall OAN. However it is considered the site selection methodology employed is flawed and the results, based on this erroneous assessment are themselves incorrect. A legal Opinion accompanies these submissions from Richard Harwood QC and Daniel Stedman Jones, which addresses the LNP's compliance with the Basic Conditions and the site allocation process in detail.
- 3.25 An assessment of the sites was made based on a matrix. This gave a numerical value to the site features, from which the two preferred sites were chosen. One of the grounds of the aforementioned legal challenge of the LNP was based on the methodology used to calculate the value. Below we outline the errors identified:

***1) the value attributed to site location had already placed the Farm Close and Nursery site within the Settlement Boundary and thus giving a preferential (lower) score. No value should be attributed under such a criteria as it is the overall assessment its self which will dictate whether or not a site should be included in the village boundary (and therefore be suitable for development). Accordingly all sites currently outside the Settlement Boundary should be given a score of 3.***

***2) the Conifer Nursery site has been incorrectly identified as a Brownfield site (and given a score of 1). As a plant nursery the Lawful Use Classification is that of 'forestry or agriculture', and is not a commercial use. It cannot therefore be considered to be Brownfield and as such should be given a score of 3.***

***3) a value is attributed to the existence or otherwise of 'overhead power' cables. However this is an invalid criteria as any new development would put all cables underground. In all cases the value given to a site should be 1 - for a no.***

4) each site is assessed in respect of being able to provide a suitable vehicle access. Our clients land, land south of Loxwood Place Farm is given a score of 2 indicating access is not know. However through the recent Planning application process it has been established that a suitable highways access can be achieved. Notwithstanding this there is a further error in the table as both the Conifer Nursery site and land south of Farm Close are scored as '1' indicating no suitable vehicle access, when certainly the Farm Close site has been assessed as having a suitable access. Assuming the answer is Yes then the score should be '3'. However a score of 3 (Yes) should indicate a negative attribute/constraint, yet for this criteria an answer of 3 (Yes) corresponds to a positive attribute. Therefore this response should be re-graded and all three sites given a '1'.

5) the score for the Conifer Nursery Site is wrongly totaled as 20. In fact it should be 21.

Having regard to the above 'errors' we have updated the matrix and attach a copy for the Inspectors information. By correctly assessing the three main sites in the light of the above highlighted errors the totals yielded by the matrix are as follows:

- *South of Farm Close* = 21 points
- *Conifer Nursery* = 23 points
- *Land South of Loxwood Place farms* = 21 points

3.26 As the above results show by using an assessment where a lower scoring indicates fewer restrictions / constraints on development, and therefore better suitability for housing development, the two lowest scoring sites include land south of Farm Close and Land south of Loxwood Place Farm (clients site). Based on this appraisal, the identification of the Conifer Nursery site within the LNP at Policy 5 is erroneous because if the pre-existing Local Plan settlement boundary was used then it would have fallen outside. As the plan is principally concerned with the location of new housing development an error in the site selection methodology undermines the whole basis of the LNP's treatment of housing allocation and OAN.

#### **4 Suitability of Land South of Loxwood Place farm for Housing development**

- 4.1 In respect of the land in which my client , Crownhall Estates has an interest - being the land south of 'Loxwood Farm Place, High Street, Loxwood', the land is identified in the May 2014 SHLAA under reference LX0857 and noted as having potential but 'Delivery Unknown'
- 4.2 The site has recently been the subject of a planning reference LX/13/03809, which was refused permission at Planning Committee dated 25<sup>th</sup> June 2014, and is now the subject of an Appeal.
- 4.3 The principal reason given for refusing permission was that the development was contrary to the emerging Loxwood Neighbourhood Plan (LNP) to which 'significant weight' was attached due to the post examination status of the emerging plan. (Obviously this is now under review again given the successful Judicial Review.)
- 4.4 The plan currently identifies the delivery of 'at least 60 units' on two sites and did not include provisions for development of the land 'south of Loxwood Place Farm'. However, in the report to Committee it is clear that Officers are of the opinion that this land is suitable for development and the scheme for 25 units is acceptable in all other respects including density and layout. Officers conclude at Paragraph 8.42.

*'The proposal would provide 25 additional dwellings of a mix that has been deemed appropriate for the local context and need. 11 of these 25 dwellings would provide affordable homes. The economic and social benefits of delivering additional dwellings also weigh in favour of the proposal'.*

- 4.5 At paragraph 8.43 the officer goes on to say '*...The principle of the proposed development clearly conflicts with the aims and policies of Loxwood Neighbourhood Plan, specifically the location of the site within the rural area. Furthermore permitting this development in addition to the housing sites already allocated in the LNP would cumulatively increase housing numbers well above the indicative parish target of 60 dwellings set out in the emerging local plan and confirmed as an appropriate number for the village through the neighbourhood plan examination'.*

- 4.6 However, given the fact that the identified housing requirement figure of 60 units to be constructed in Loxwood, is derived from the figure contained in the draft District Local Plan which has been shown to fall short of the 'Objectively Assessed Housing Need figure', there is a strong possibility that this figure will require a further review. The land south of Loxwood Place Farm has been shown to be able to accommodate additional development for the Parish in such circumstances and this should be reflected in the Neighbourhood Plan.
- 4.7 It is noted that the initial Settlement Capacity document for Loxwood suggested a figure of 60-100 dwellings as an appropriate level of provision in the Village. The LNP does not state why the figure of 60 homes was chosen when there are relatively few constraints on development, the WwTW has a capacity for 80 homes and the SHLAA included a number of sites ( including land South of Loxwood Place Farm), which can accommodate additional homes over and above the 60 units identified.
- 4.8 Furthermore there are no identified constraints which limit the development of the Loxwood Place farm. It does not lie within a Flood Zone area, it is open land, (rough grass land) and lies on the west side of the village where the Landscape Capacity Study identified the area as having 'Low Landscape Capacity'.
- 4.9 On the basis of the above we consider that the village of Loxwood is able to accommodate additional housing units over and above the previously stated 60 units and a figure of 100 units would not be unreasonable given there are no physical constraints on the village.
- 4.10 For the reasons set out above it must be concluded that Loxwood Place Farm could be allocated for development. The site is available and immediately deliverable, and will make a meaningful contribution to the land supply position in the north of the district alleviating pressure on the more constrained parts in the southern part of the District.