

Fairford
Neighbourhood Development Plan
Submission Version



April 2017

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1 INTRODUCTION

1.1 Context

- 1.1.1 **Gladman Developments Ltd (hereafter referred as “Gladman”) specialise in the promotion of strategic land for residential development and associated community infrastructure. From this experience, we understand the need for the planning system to deliver the homes, jobs and thriving local places that the country needs.**
- 1.1.2 **These representations provide Gladman’s response to the current consultation held by Cotswold District Council (CDC) on the submission version of the Fairford Neighbourhood Plan (FNP) under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012. Gladman have been involved throughout the preparation of the FNP having submitted representations to the pre-submission version of the Plan in December 2016. It is disappointing to see that the Fairford Town Council (FTC) have not fully considered the contents of our earlier submissions, as such outstanding objections to several of the Plan’s policies remain.**
- 1.1.3 Through these representations, Gladman provides an analysis of the FNP and the policy decisions promoted within the Plan. Comments made by Gladman through these representations are **provided in consideration of the FNP’s vision, objectives, suite of policies and its ability to fulfil the Neighbourhood Plan Basic Conditions as established by paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended) and supported by the Neighbourhood Plan chapter of the PPG¹.**
- 1.1.4 In accordance with the Neighbourhood Plan Basic Conditions, Neighbourhood Plan policies should align with the requirements of the National Planning Policy Framework (the Framework) and the **wider strategic policies for the area set out in the Council’s adopted Development Plan.** Neighbourhood Plans should provide a policy framework that complements and supports the requirements set out in these higher-order documents, setting out further, locally-specific requirements that will be applied to development proposals coming forward. However, the FNP is progressing at a point in time where an up-to-date Framework and PPG compliant Local Plan is not in place. Accordingly, it is important that the FNP seeks to align with the strategic policies of the emerging District Local Plan and contains sufficient flexibility to enable it to react to changing circumstances that may arise through the examination of the emerging District Local Plan.
- 1.1.5 The FNP should only be progressed if it meets the Neighbourhood Plan Basic Conditions, is supported by a robust and proportionate evidence base and allows for sufficient flexibility due to the uncertainty regarding the outcome of the emerging District Local Plan.
- 1.1.6 The Framework is clear that Neighbourhood Plans cannot introduce policies and proposals that would prevent sustainable development opportunities from going ahead. They are required to plan

¹ Section ID: 41

positively for new development, enabling sufficient growth to take place to meet the development needs for the area and to assist local authorities in delivering full objectively assessed needs (OAN) for housing. Policies that are not clearly worded or intended to place an unjustified constraint on further sustainable development are not consistent with the requirements of the Framework or the Neighbourhood Plan Basic Conditions.

- 1.1.7 The FNP should not seek to include policies in Neighbourhood Plans that have no planning basis, no supporting technical evidence base or are inconsistent with national and local policy obligations. Proposals should be appropriately justified by the findings of a supporting evidence base and must be sufficiently clear to be capable of being interpreted by applicants and decision makers. Policies and proposals contained in the FNP should also be designed to add value to existing policies and national guidance, as opposed to replicating (or contradicting) their requirements.
- 1.1.8 Of particular concern to Gladman is the absence of sufficient flexibility in the Regulation 16 version of the FNP. The Plan has been prepared in the context of prescriptive requirements, lacking appropriate supporting evidence documents, and of a lack of up-to-date (adopted) strategic development plan policies to which the FNP can be considered against. Therefore if this context changes, there is no mechanism in place to allow for any changes to the policies in the FNP until such time as a review of the Plan is undertaken or it is replaced by a higher order District Local Plan.
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2 **LEGAL REQUIREMENTS, NATIONAL POLICY & JUDGEMENTS**

2.1 Legal Requirements

2.1.1 Before a neighbourhood plan can proceed to referendum it must be tested against a set of basic conditions set out in paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). The Basic Conditions that the FNP must meet are as follows:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.
- d) The making of the order contributes to the achievement of sustainable development.
- e) The making of the order 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).
- f) The making of the order does not breach, and is otherwise compatible with, EU obligations.

2.2 National Planning Policy Framework, & Planning Practice Guidance

National Planning Policy Framework

2.2.1 **The National Planning Policy Framework (the Framework) sets out the Government’s planning policies for England and how these are expected to be applied.** In doing so it provides guidance on the requirement for the preparation of neighbourhood plans to be in general conformity with the strategic priorities for the wider area and defines the role which neighbourhood plans can play in delivering sustainable development.

2.2.2 At the heart of **the Framework**, is a *“presumption in favour of sustainable development”* which, as outlined in paragraph 14, should be seen as a golden thread running through both plan-making and decision taking. For plan-making this means that plan makers should positively seek opportunities to meet the development needs of their area and Local Plans should meet Objectively Assessed Needs (OAN) for housing, with sufficient flexibility to adapt to rapid change. This requirement is also applicable to neighbourhood plans.

2.2.3 Paragraph 16 of the Framework makes clear that the presumption in favour has implications for how communities engage in neighbourhood planning, stating that neighbourhoods should;

- **“Develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;**
 - Plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan; and
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- Identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with their neighbourhood plan **to proceed.**”

2.2.4 Furthermore, paragraph 17 sets out that neighbourhood plans should define a succinct and positive vision for the future of the area and that neighbourhood plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. In addition, neighbourhood plans should seek to proactively drive and support sustainable economic development to deliver the homes, jobs and thriving local places that the country needs, whilst responding positively to the wider opportunities for growth.

2.2.5 Further guidance for groups involved with the production of neighbourhood plans is specified at paragraph 184;

“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”

2.2.6 This makes clear that the ambition of the neighbourhood plan should be aligned with the strategic needs and priorities of the wider area. To facilitate this, local planning authorities will need to set out clearly their strategic policies and ensure that an up-to-date Local Plan is in place as quickly as possible. Where a neighbourhood plan proceeds in advance of the adoption of a Framework-compliant Local Plan, it is likely that this will create uncertainty as to whether the neighbourhood plan provides an appropriate basis for the spatial approach contained in its administrative area. It is therefore important that sufficient flexibility is included within the Plan so that it is able to respond positively to changing circumstances which can arise through the preparation of the emerging Local Plan.

Planning Practice Guidance

2.2.7 It is clear from the requirements in the Framework that neighbourhood plan policies should be prepared in general conformity with the strategic requirements for the wider areas, as confirmed in an adopted Development Plan. The requirements set out in the Framework have now been supplemented by the publication of Planning Practice Guidance (PPG).

2.2.8 On the 11th February 2016, the Secretary of State (SoS) published a series of updates to the neighbourhood planning chapter of the PPG. In summary, these updated a number of component

parts of the evidence base that are required to support an emerging neighbourhood plan. In particular, Paragraph 009 of the PPG² states:

“Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- **the emerging neighbourhood plan**
- **the emerging Local Plan**
- **the adopted development plan**

with appropriate regard to national policy and guidance...

Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in **the neighbourhood plan are not overridden by a new Local Plan.”**

2.2.9 This guidance is intended to ensure that emerging evidence of housing need is addressed, to in turn help to minimise any potential conflicts which can arise and ensure that policies are not overridden by a new Local Plan.

2.2.10 On the 19th May 2016, the SoS published a further set of updates to the neighbourhood planning chapter of the PPG. These updates reiterate the importance of taking account of latest and up-to-date evidence of housing need and outline that there may be other material considerations which may be given greater weight in planning decisions as the evidence base for the plan policy becomes less robust³.

2.2.11 The updates also emphasise that;

“... All settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.”⁴

2.2.12 Accordingly, the FNP will need to ensure that it takes into account the latest guidance issued by the SoS so that it can be found to meet basic condition (a).

² Reference ID: 41-009-20160211

³ Paragraph: 084 Reference ID: 41-084-20160519 (Revised 19/05 2016)

⁴ Paragraph: 044 Reference ID: 41-044-20160519 (Revised 19/05/2016).

3 DEVELOPMENT PLAN

3.1 Adopted Development Plan

- 3.1.1 To meet the requirements of the Framework and the Neighbourhood Plan Basic Conditions, neighbourhood plans should be prepared to conform to the strategic policy requirements set out in the adopted Development Plan.
- 3.1.2 The adopted Development Plan relevant to the preparation of the FNP is the Cotswolds District Local Plan, adopted in 2006 covering the period 2001 to 2011. A number of policies contained in the adopted Development Plan were ‘saved’ following the Secretary of State’s ‘Saving Direction’.
- 3.1.3 Gladman note paragraph 3.6 of the consultation document which states ‘*Fairford is defined as a Principal Settlement in the district and has a development boundary (Policy 18), but the remainder of the plan proposals for the town are now well out of date.*’ Whilst the Town Council recognise that the adopted Development Plan is out of date, Gladman consider that all relevant policies for the supply of housing are out of date, including the extant development boundary. This is also the position taken by the District Council at numerous recent appeals (including in Fairford) and confirmed by each of those S78 appeal Inspectors. As such, Gladman consider a more permissive approach consistent with the requirements of paragraph 14 of the Framework is required.

3.2 Emerging Cotswolds Local Plan

- 3.2.1 To meet the requirements of the Framework, **which includes meeting the District’s Objectively Assessed Need (OAN) for housing**, Cotswold District Council (CDC) is progressing a new Local Plan to cover the period 2011 to 2031. Consequently, draft policy DS1 (1) sets out that sufficient land will be allocated, which together with existing commitments will deliver at least 8,400 dwellings over the plan period to 2031. The use of minimum housing targets has previously been considered in **examiner’s reports for ‘made’ neighbourhood plans**. For example, **the examiner’s report for the Slaugham Neighbourhood Plan⁵ in Mid Sussex** stated that:

“Given that the strategic objective of the plan refers to “at least 130”, I assume it to be a minimum. If it were to be a maximum this would not allow for the flexibility the Framework seeks in responding to changing conditions.”

- 3.2.2 **Indeed, this position is further supported in the Examiner’s Report to the Billesdon Neighbourhood Plan⁶ which stated that:**

“Core Strategy Policy CS2 refers to the overall housing provision for the District as a minimum, using the wording ‘at least’ I recommend that reference to a target of 45 dwellings in Policy BP2 be stated as a minimum...’

⁵ http://www.midsussex.gov.uk/media/76339/slaugham_neighbourhood_plan_decision_statement_-_final.pdf

⁶ <http://mycommunity.org.uk/wp-content/uploads/2015/09/Billesdon-Examiners-Report.pdf>

3.2.3 Accordingly, the housing policies contained in the FNP should be seen as a minimum in order to allow for sufficient flexibility and have regard to direction contained in the emerging Local Plan⁷.

3.2.4 Draft Local Plan Policy DS1 goes on to set out that these dwellings will be delivered primarily in the identified Principal Settlements, of which Fairford is one. Gladman note that CDC were previously proposing a housing requirement of 7,600 dwellings through previous drafts of the emerging Local Plan, a difference of an additional 800 dwellings compared to the latest assessment of need.

3.2.5 The advice and guidance contained in the PPG specifically states that where a neighbourhood plan contains policies relevant to housing supply, these policies should take account of the latest and most up-to-date evidence of housing needs⁸. **Whilst CDC's Strategic Housing Market Assessment Update (2016) provides what CDC considers to be the most up-to-date evidence on housing needs based on an analysis by NMSS (2016) this evidence is subject to outstanding objections. Gladman has commissioned Regeneris Consulting to provide a critique of the Council's OAN evidence. The key points are summarised below (a full copy of the report is contained in Gladman's representations to the emerging Local Plan submission consultation):**

- In many respects the NMSS (2016) analysis is a thorough piece of work. Compared to the previous NMSS analysis it has reflected new information, not least the more positive economic forecasts for Cotswold now available, and has revised upwards the OAN from 380 to 420 dwellings per annum (dpa). However, we have several concerns with the analysis and conclusions drawn.
- The workings and assumptions are very difficult to follow and far from transparent. This is far from ideal for an important part of the emerging Local Plan's evidence base.
- The case for adjusting (upwards) household formation rates for those aged 25 to 35 or 40 is dismissed too lightly.
- The analysis of market signals is flawed in its conclusions that *"there is no case for any further adjustment for market signals"*. On the basis of the data provided by NMSS and more recent information, there is a good case for at least a 10% market signals adjustment rising to potentially a 20% or 25% adjustment (or an extra 40 dpa to 85 dpa on top of the OAN that takes account of economic growth factors). On the NMSS basis of calculating the OAN this would lead to an OAN of 460 to 505 dpa OAN.
- The approach to assessing the need for extra housing to cater for the forecasted jobs is far from transparent and may be flawed and understate the extra labour and in-migration needed.
- On a reasonable interpretation of PPG there is a case for uplifting the OAN to help with delivery of affordable housing and meeting affordable housing need. This would at the very least support the larger market signals uplift adjustment.

⁷ PPG Paragraph: 009 Reference ID: 41-009-20160211

⁸ PPG Paragraph: 040 Reference ID: 41-040-20160211

- Applying the recent Local Plans Expert Group (LPEG) approach would deliver an OAN of just over 500 dpa.
- In conclusion we suggest that the evidence for Cotswold supports an OAN of over 500 dpa rather than the 420 dpa suggested by NMSS.

3.2.6 Whilst this is an issue for the emerging Local Plan Inspector to consider when that Plan is submitted for Examination, the FNP will need to ensure that it allows for sufficient flexibility so that it is able to react to any potential changes that may arise through the Examination of the emerging Cotswolds Local Plan.

3.2.7 It is disappointing that further consideration has not been given to the inclusion of additional allocations or housing reserve sites as suggested in our response to the Regulation 14 consultation. Due to the substantial uncertainty regarding the OAN for Cotswolds, Gladman consider that there is a critical need for the Plan to ensure that it allows sufficient flexibility to ensure that its full OAN can be met, and Basic Conditions (a) and (d) are complied with.

3.3 Housing Distribution

3.3.1 Within the proposed submission draft of the CLP a number of sites are allocated for housing development. In terms of the housing distribution identified within the proposed submission consultation draft of the CLP, Fairford is identified as one of the Principal Settlements required to accommodate future growth to meet **the District's** identified housing need.

3.3.2 A fundamental objective of the Framework is to secure a thriving **rural economy "by taking a positive approach to sustainable new development"** (paragraph 28). The Framework also seeks to significantly boost the supply of new housing in rural areas at paragraph 55 where it is stated that; **"housing should be located where it will enhance or maintain the vitality of rural communities"**, and paragraph 54 it is stated that **market housing may be allowed where it "would facilitate the provision of significant affordable housing to meet local needs."**

3.3.3 As highlighted in section 2.2, there is a critical need to align the emerging Local and Neighbourhood Plan to minimise any potential conflict going forward. Whilst the housing allocations are a matter to be considered at the upcoming Local Plan examination, it is a concern that the FNP seeks to promote a strategy entirely different to that contained in the emerging Local Plan. The FNP cannot therefore be considered to support strategic needs and the direction taken in the emerging Local Plan.

4 FAIRFORD NEIGHBOURHOOD PLAN

4.1 Context

4.1.1 These representations are made in response to the current consultation on the submission version of the FNP published in February 2017, under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012. This chapter of the submission highlights the key points that Gladman raise with regard to the content of the FNP as currently proposed.

4.1.2 It is noteworthy however that these representations raise a number of matters which were also raised by Gladman through the previous Regulation 14 consultation version of the FNP (whose consultation ended 19th December 2016), which have not been addressed in the short intervening period and as a result remain prevalent in the Regulation 16 version of the FNP.

4.2 The suitability of the Fairford Neighbourhood Plan area to support growth

4.2.1 The Framework seeks to promote sustainable development to meet identified housing needs. The FNP should therefore seek to promote these interests to ensure that the sustainability of the settlement remains and that it apportions meaningful growth to ensure the ongoing vitality and viability of local services and facilities.

4.2.2 As recognised in paragraph 2.18 of the FNP, Fairford benefits from a good range of local services, including a town centre, two convenience stores, a post office, a chemist, a butcher, a hotel, cafes, a restaurant, hairdressers, **beauticians, several takeaways, a community centre, library/children's** centre, primary and secondary schools, health services, churches, sports facilities, clubs and societies.

4.2.3 It is therefore important to consider the existing services and facilities in the settlement and their **future viability when assessing the Plan's ability to support new growth**. Daily needs such as those identified above are particularly important in a rural district such as Cotswold District. It must be recognised that, through new development, the opportunity to improve some of the services, facilities and community assets can be maintained and enhanced so that they are not lost as a result of a lack of support (such as the closure of the local bank) as a result of out-migration of existing residents due to a lack of available housing.

4.2.4 Indeed, Fairford not only provides a critical role for its own community members but also provides a critical role in serving the wider rural hinterland. Accordingly, Fairford is identified as a Principal Settlement in the current and emerging Cotswold District Local Plans, and the FNP should seek to support additional growth opportunities that come forward which can help maintain the vitality and viability of existing services and facilities whilst also providing new opportunities to provide the aspirational objectives of the plan such as improving existing community assets or providing new infrastructure that the neighbourhood plan seeks to deliver.

4.3 Neighbourhood Plan Policies

4.3.1 This section of **Gladman’s** representations is made in response to those policies which need to be addressed and amended through modification and/or deleted to allow a more flexible and positive approach consistent with the requirements of national policy and guidance.

FNP1: The Fairford and Horcott Development Boundaries

4.3.2 This policy defines Development Boundaries at Fairford and Horcott, for the purpose of applying other development plan policies relating to development within the built up area and in the countryside.

4.3.3 Gladman object to the use of settlement limits where these would preclude the delivery of otherwise sustainable development proposals from coming forward. The Framework is clear that development that is sustainable should go ahead without delay in accordance with the presumption in favour of sustainable development. The use of a settlement limit to arbitrarily restrict suitable development from coming forward does not accord with the positive approach to growth required by the Framework. Indeed, the Neighbourhood Plan has already highlighted that the adopted Development Plan is considerably out of date and as currently proposed Policy FNP1 adds nothing to the existing development plan policy in taking account the new principles provided by the Framework, nor does it provide any information as to what forms of development are considered appropriate beyond this artificial limit **apart from the brief reference of ‘other than development plan policies relating to appropriate development within the built up area and in the countryside’**.

4.3.4 Policy FNP1 does not allow a decision maker to apply this policy consistently and with ease through the decision making process, and is therefore contrary to the express requirements of the Framework.

4.3.5 **Furthermore, Gladman note the Inspector’s decision to land south of Cirencester Road, Fairford⁹** states that:

*‘As policy 19 seeks to simply restrict development outside settlement boundaries it is a policy for the supply of housing. So even if the plan was not time expired, to the extent that policy 19 seeks to establish the principle that no open market housing development should take place outside settlement boundaries, it would **be out of date.**’*

4.3.6 As highlighted in section 3.2, there is considerable uncertainty **over whether CDC’s** emerging Local Plan will be accepted by the Local Plan Inspector when this document is tested at Examination. As such, the FNP needs to ensure that it allows for sufficient flexibility to address matters that could arise through the Local Plan Examination i.e. the need for additional housing allocations to ensure a flexible and responsive supply of housing land is made available to assist the District Council in meeting its OAN in full. Accordingly, it is advised that the Neighbourhood Plan takes a more flexible

⁹ PINS Reference: APP/F1610/A/14/2213318

stance on development adjacent to the existing settlement and the following wording is put forward for consideration:

'When considering development proposals, the Fairford Neighbourhood Plan will take a positive approach to new development that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Applications that accord with the policies of the Development Plan and the Fairford Neighbourhood Plan will be supported particularly where:

- *Providing new homes including market and affordable housing; or*
- *Opportunities for new business facilities through new or expanded premises; or*
- *Infrastructure to ensure the continued vitality and viability of the neighbourhood area.*

Development adjacent to the existing settlement will be permitted provided that any adverse impacts do not significantly and demonstrably outweigh the benefits of development.'

ENP6 Managing Flood Risk

- 4.3.7 Gladman consider that FNP6 is fundamentally flawed and not in accordance with the Framework or with the PPG. FNP6 has been prepared with not only a poor understanding of the relevant technical disciplines (hydrology, hydrogeology, geology) but also with poor understanding of the practical consequences of its implementation. This section outlines a broad response to the issues presented by this policy and is also supported by a technical response provided by Enzygo at appendix 1 of this submission over how this policy works in practice.
- 4.3.8 Gladman do not consider this policy as proposed is supported by robust and proportionate evidence as required by the PPG¹⁰. The County and Unitary local authorities have statutory responsibility for addressing groundwater flooding risk locally and the FNP cannot influence this responsibility.
- 4.3.9 Built development (i.e. housing) is sequentially confined to those areas within Flood Zone 1 not at risk of surface water, groundwater or other forms of flooding. Many alternative forms of development are acceptable in flood zones 2 and 3 and so it appears that this policy is written primarily to frustrate future residential development. Indeed, we would question how FNP3 will be **delivered as it is 'an area known to be** at risk of groundwater flooding¹¹ and FNP16¹² when the purpose of the policy is to resist development on groundwater or surface water.
- 4.3.10 FNP6 is considered inconsistent with basic conditions (a) and (d) and should therefore be deleted in its current form.

¹⁰ PPG Paragraph: 040 Reference ID: 41-040-20160211

¹¹ Fairford Neighbourhood Plan paragraph 5.17

¹² Site Assessment Report – Environmental Quality – 'SW part of the site located within Ground Water SPZ 2'

ENP7: Investing in Utilities Infrastructure Improvements

- 4.3.11 This policy states that development proposals must demonstrate that they include provisions which ensure that any additional capacity required for local utilities infrastructure will be delivered in time to service the development and that houses must not be occupied until it can be demonstrated that the sewerage system has adequate capacity to accommodate the additional flow generated by development proposals.
- 4.3.12 **Whilst sympathising with the community's** concerns, improvements to local utilities infrastructure is a statutory requirement of the relevant infrastructure providers and it is not the responsibility of developers to resolve or provide additional capacity. With regard to foul drainage as specifically referenced, it is the responsibility of the sewerage undertaker to manage the capacity of its facilities and network, with developers required only to mitigate any adverse impact arising as a result of their development and not to solve existing infrastructure issues.
- 4.3.13 Section 94(1) of the Water Industry Act (1991) places a duty on sewerage undertakers to plan and implement any works necessary to ensure their network of sewers will continue to operate satisfactorily once they have received notification that a developer intends to exercise their right to connect under Section 106(1). Should any additional capacity be required to facilitate the specific development, the developer will be required to contribute towards that additional capacity but where this is covered by separate statute, to otherwise duplicate that through the planning system is both unnecessary and unreasonable and delaying otherwise sustainable growth opportunities over a matter which is outside the control of a developer (and the planning system) is not in accordance with national policy and guidance. Indeed, this point was recently addressed by the **Examiner's Report to the Headcorn Neighbourhood Plan**¹³. Paragraph 2.45 stated:
- "The pre-condition provided by the Parish Council in HNP11 would place a disproportionate burden upon housing developers in Headcorn to either meet the cost of remedying existing problems, in addition to the impact of the new housing proposed, or in the alternative, to wait until pre-existing problems have been remedied. Such a burden would be inequitable and contrary to and inconsistent with the NPPF and NPPG, as previously explained by Southern Water. I agree that it would not be appropriate for the planning system to expect development to remedy pre-existing problems or be frustrated in bringing forward new housing providing this would not exacerbate drainage conditions through appropriate mitigation." (Our emphasis)
- 4.3.14 The Examiner recommended in this instance that the Plan should not proceed to referendum. Whilst not specifically addressing the issue of whether or not this policy '**meets the basic conditions**' it is **Gladman's** view that as the Examiner identified that the pre-condition similar to the one outlined in FNP7 is not in accordance with national policy and therefore contrary to basic condition (a).

¹³ http://www.maidstone.gov.uk/__data/assets/pdf_file/0006/139740/Headcorn-Examiners-Report.pdf

4.3.15 Gladman consider that FNP7 should therefore be deleted.

FNP8: Managing traffic in the town

4.3.16 Gladman reiterate the previous representations submitted under Regulation 14 and question the rationale behind this policy which only seeks to support improvements to the highway network within the development boundary. Notwithstanding the comments made on the proposed development boundary in response to FNP1, there may be instances where highways improvements are necessary to ensure appropriate highway safety standards are achieved. Indeed, the Framework makes clear that safe and suitable access to a site can be achieved for all people and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Whereas here, the Neighbourhood Plan seeks to apply a blanket approach to any improvements to the highway network beyond an arbitrary settlement boundary. This is not **within the Plan's ability as improvements to highway networks will** be undertaken by Gloucestershire County Council as Local Highway Authority and covered under separate statute. The approach taken in the FNP is not in accordance with national policy and is therefore contrary to basic conditions (a) and (d).

4.3.17 Gladman consider that it is necessary to delete FNP8 in its current form.

Policy FNP9: Improving access to nearby visitor attractions

4.3.18 Gladman support the intention of this policy which seeks to support development proposals which will improve pedestrian and cycle access between Fairford and nearby visitor attractions. However, we question how this policy will be implemented when Policy FNP8 prevents the ability of improvements being delivered beyond the development boundary. Further, we would question how the improvements under this aspiration will be implemented due to the areas identified being outside the neighbourhood plan area and are therefore outside the remit of the FNP (i.e. surrounding villages such as Lechlade).

FNP10: Protecting Local Green Spaces

4.3.19 This policy seeks to designate four parcels of land as Local Green Space (LGS). In order to designate land as LGS the Town Council must ensure that it is able to demonstrate robust evidence to meet national policy requirements as set out in the Framework. The Framework makes clear at §76 that the role of local communities seeking to designate land as LGS should be consistent with the local planning of sustainable development. Paragraph 76 states that:

'Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.' (Our emphasis)

4.3.20 Further guidance is provided at §77 which sets out three tests that must be met for the designation of LGS and states that:

'The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- *Where the green space is in reasonably close proximity to the community it serves;*
- *Where the green area is 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*
- *Where the green area concerned is local in character and is not an extensive tract of land.'* (Our emphasis)

4.3.21 The requirements of the Framework have now been supplemented by advice and guidance contained in the PPG. Gladman note paragraph 007 of the PPG¹⁴ which states, ***'Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used to in a way that undermines this aim of plan making.'*** (Our emphasis)

4.3.22 Gladman further note paragraph 015 of the PPG (ID37-015) which states, ***'Paragraph 77 of the National Planning Policy Framework is clear that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a 'back door' way to try to achieve what would amount to a new area of Green Belt by another name'*** (our emphasis). Designation of LGS should not be used as a mechanism to designate new areas of Green Belt (or similar), as the designation of Green Belt is inherently different and must meet a set of stringent tests for its allocation (paragraphs 82 to 85 of the Framework).

4.3.23 Gladman do not believe the FNP's supporting evidence is sufficiently robust to justify the proposed allocation of land off Horcott Road (site iii 'The Short Piece') as LGS. **The issue of whether LGS meets the criteria for designation has been explored in a number of Examiner's Reports across the country and we highlight the following decisions¹⁵:**

- The Seldlescombe Neighbourhood Plan Examiner's Report¹⁶ recommended the deletion of a LGS measuring approximately 4.5ha as it was found to be an extensive tract of land.
- The Oakley and Deane Neighbourhood Plan Examiners Report¹⁷ recommended the deletion of a LGS measuring approximately 5ha and also found this area to be not local in character. Thereby failing to meet 2 of the 3 tests for LGS designation.

¹⁴ PPG Paragraph 15 – Reference ID: 37-015-20140306

¹⁵ Note: Gladman has measured the size of LGS where these have not been specifically referenced by the Examiner.

¹⁶ <http://www.rother.gov.uk/CHttpHandler.ashx?id=22996&p=0> – Pages 22 - 23

¹⁷ <https://www.basingstoke.gov.uk/content/doclib/1382.pdf> - Pages 27 - 29

- **The Alrewas Neighbourhood Plan Examiner’s Report**¹⁸ identifies that both sites proposed as LGS in the neighbourhood plan to be extensive tracts of land. The Examiner in this instance recommended the deletion of the proposed LGSs which measured approximately 2.4ha and 3.7ha.
 - **The Freshford and Limpley Neighbourhood Plan Examiner’s Report**¹⁹ identified that the six LGS proposed did not meet the criteria required by the Framework either collectively or individually. Indeed, the Examiner identified that the combination of sites comprised of an extensive tract of land. The Examiner also considered that the protection of fields to *‘prevent agglomeration between the settlement areas...is not the purpose of Local Green Space designation’*.
 - **The Eastington Neighbourhood Plan Examiner’s Report**²⁰ recommended the deletion of three LGS (16ha and 2ha) considered to be extensive tracts of land. The third proposed LGS was deleted due to the lack of evidence demonstrating its importance and significance to the local community.
 - **The Tattenhill and Rangemore Neighbourhood Plan Examiner’s Report**²¹ recommended the deletion of 2 LGS comprising of 4.3ha and 9.4ha.
 - **The Norley Examiner’s Report**²² identified a total of 13 parcels of land to be designated as LGS. The Examiner recommended at \$4.98 that the ‘identification of these extensive tracts of agricultural land was contrary to NPPF policy’ and recommended that the policy should be deleted. The proposed LGS measured in the range of 1ha – 4.3ha.
 - **The Malpas and Overton Neighbourhood Plan Examiner’s Report**²³ recommended the deletion of policy LC4 which included a total 42 LGS. The Examiner identified that **‘a number of identified sites do not meet one or all of these requirements.’** With regard to the third criteria the Examiner recommended that sites 16, 17 and 40 be deleted as they are **‘relatively extensive tracts of countryside’**. The size of these sites ranged from 3.4ha – 16ha. In this instance the Examiner also highlighted the importance of contacting landowners at an early stage about proposals to designate land as LGS. The Examiner was unable to identify any evidence of a targeted consultation with landowners. Apart from Regulation 14 consultation no attempt has been made to contact the landowner at land off Horcott Road or Gladman regarding the designation of land off Horcott Road as LGS.
- 4.3.24 As per our previous submissions and highlighted through a number of Examiner’s Reports set out above, Gladman do not consider it appropriate that land off Horcott Road has been designated as LGS.
- 4.3.25 Whilst information has been prepared by FTC in an attempt to justify its proposed LGS policy, it does not overcome the failure to meet specific policy requirements including with regards to consideration of whether the site is an extensive tract of land. Gladman reiterate that this land is not

¹⁸ <https://www.lichfielddc.gov.uk/Council/Planning/The-local-plan-and-planning-policy/Neighbourhood-plans/Downloads/Alrewas/Alrewas-Neighbourhood-Plan-Examiners-Report.pdf> - pages 25 - 26

¹⁹ http://www.wiltshire.gov.uk/freshford_limpley_examination_final_report.pdf - paragraphs 71 - 88

²⁰ <https://www.stroud.gov.uk/media/2596/2016-04-28-eastington-examiners-report-final.pdf> - paragraphs 3.36 - 2.43

²¹

<http://www.eaststaffsbc.gov.uk/sites/default/files/docs/planning/planningpolicy/neighborhood/02%20Tattenhill%20Neighborhood%20Plan%202015.pdf> – pages 24 - 27

²² <http://consult.cheshirewestandchester.gov.uk/file/3626372> - paragraphs 4.91 - 4.99

²³

<http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwim4NzPr43TAhVGIsAKHFivCXIQFggcMAA&url=http%3A%2F%2Fconsult.cheshirewestandchester.gov.uk%2Ffile%2F3341992&usg=AFQjCNFSSPBKws36mL9T1ZHyfdVRVI3boA&sig2=jxAP6G0lgz7oRkPtG98SA> – paragraphs 6.116 – 6.132

a recreational area and has no public access; the adjacent public footpath to the north is located on the opposite side of a stone wall. Gladman remain of the opinion that there is no robust and justifiable evidence to support that the fields making up its Horcott Road site are **‘demonstrably special to the local community’**. In relation to its beauty, it is not of any particular scenic quality as confirmed in the site specific LVA assessment of landscape value supporting Gladman’s outline planning application, and the site is not of any particular scenic quality.

- 4.3.26 **The designation of ‘the Short Piece’ has not been made in accordance with basic conditions (a) and (d).** Gladman submit that Site III be deleted as a LGS in its entirety.

Policy FNP11: Protecting the Fairford – Horcott Local Gap

- 4.3.27 Policy FNP11 defines the Fairford to Horcott Local Gap for the purpose of preventing coalescence of the two settlements. Gladman note that development within the Local Gap will only be supported if development does not harm, individually or cumulatively, its function and open character.

- 4.3.28 Gladman reiterate the comments submitted to the Regulation 14 consultation. The emerging Local Plan (Submission Draft – June 2016) refers to Horcott and Fairford being separated by the River Coln flood plain and that the two areas all but join at the northern end of Horcott Road such that their physical separation is fairly imperceptible on the ground there. Indeed the emerging Local Plan states in relation to Horcott and Fairford;

‘...the two areas all but join at the northern end of Horcott Road. Their physical separation is fairly imperceptible on the ground. Given this, and the fact that the Horcott Industrial Estate is the town’s main employment area, Horcott is considered to be an integral part of Fairford.’

- 4.3.29 The supporting text to the policy states that a fuller justification for this policy is provided in the FNP Landscape and LGS study. Within this document the aims of the designation area stated as;

- a) To prevent the coalescence of the two settlements, Horcott and Fairford;*
- b) To ensure that the character of Fairford and Horcott as essentially rural communities is maintained; and*
- c) To preserve a visual break between old and new, between Conservation Area and new estate.*

- 4.3.30 As rightly acknowledged within the emerging Local Plan, these two areas (Fairford and Horcott) are an integral part of the same settlement area and any separation is imperceptible on the ground. This analysis is supported by the site specific LVA and the subsequent work undertaken by FPCR to support an outline planning application for up to 92 residential dwellings to the west of Horcott Road.

- 4.3.31 In terms of land to the west of Horcott Road, the character of the two areas will not be discernibly altered or affected to any significant degree by the proposed development that has carefully considered how it would be assimilated and relate to the surrounding settlement context. The identities of the two areas will similarly not be altered or affected to any significant degree.

- 4.3.32 Aim c) refers to preserving a visual break between old and new, between the Conservation Area and the new estate. This approach **appears quite divisionary, wishing to** ‘preserve a visual break and seeking to keep the older Conservation Area apart from any more recent development. This is an unusual aim for a Local Gap designation and does not reflect the existing settlement pattern and character where newer and older parts exist alongside each other e.g. on the eastern and western approaches into Fairford along the A417 and south of the A417 towards the centre of the town i.e. this is not an aim that supports the existing pattern and character of the settlement. Whilst a single word of the draft policy has been amended as a result of our Regulation 14 consultation response, **the policy itself remains akin to ‘creating’ a visual break as previously written, rather than ‘preserving’ a visual break as it is now written.**
- 4.3.33 Further, **in terms of assessing ‘the Short Piece’ the evidence merely refers to the ‘Local Green Space’** evidence which only provides some nominal statements rather than a meaningful contribution to a **‘Local Gap’**. **As identified in the Examiner’s Report** to the Freshford and Limpley Neighbourhood Plan referenced above, it is not the purpose of LGS to be used as a backdoor approach to implementing a Local Gap policy. **In addition, the Examiner’s Report to the Oakley and Deane Neighbourhood Plan** recommended the deletion of a Green Gap due to the lack of an adopted strategic policy to which the Plan could be in conformity with and the lack of substantive evidence **to demonstrate that the “Green Gap” is the result of robust, detailed analysis²⁴.**
- 4.3.34 Gladman submit that the identification of a Local Gap is considered to be a strategic policy that should only be confirmed in an adopted Local Plan. A Local Gap has not been identified in the adopted Development Plan nor is one identified in the emerging Local Plan in this location. Accordingly, it is not the place of the neighbourhood plan to implement strategic policies that would prevent the delivery of future sustainable growth.
- 4.3.35 The recent case of Suffolk Coastal District Council v Hopkins Homes Ltd & Richborough Estates Partnership LLP v Cheshire East Borough Council dated 17th March 2016 is informative on this point and the wide interpretation that such designations are relevant to the supply of housing.
- 4.3.36 Furthermore, the recent update to the PPG makes clear that all settlements can play a role in delivering sustainable development in rural areas, and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence²⁵. Gladman consider that this is a blanket policy given the scale of land proposed as a Local Gap which, together with other policies contained in the Plan, will act to restrict otherwise sustainable housing development at land off Horcott Road in a manner that is contrary to national policy and guidance.
- 4.3.37 Policy FNP11 is therefore considered to be inconsistent with basic conditions (a), (d) and (e).

FNP12: Protecting the area of Special Landscape Value

²⁴ <https://www.basingstoke.gov.uk/content/doclib/1382.pdf> - Policy 11 - Page 13

²⁵ PPG Paragraph: 001 Reference ID: 50-001-20160519

- 4.3.38 The Neighbourhood Plan seeks to designate an Area of Special Landscape between the River Coln and London Road. It is noted that paragraph 5.45 states ‘*The designation complements the proposed Local Gap to its west and together they are intended to maintain the special landscape character and visual integrity of the land to the south of the town..*’ It is therefore confusing how this policy will be applied given that its supporting text gives protection to land within the proposed Area of Special Landscape and land outside this policy designation (i.e. the Local Gap).
- 4.3.39 Gladman submit that new development can often be located on the edge of settlements without resulting in the loss of openness, character or views considered to be important by the local community. The delivery of sustainable development proposals can often enhance an existing landscape setting and provide new vistas and views to the surrounding area.
- 4.3.40 Notwithstanding the above, whilst FTC have updated their supporting evidence the policy still does not provide any justification with regard to the forms of development that it considers would be considered appropriate within this location. Indeed, without this clarity we question how this policy will be applied (including by CDC) in a consistent manner through the development management process. Opinions on landscape are highly subjective, meaning that without further clarity, this policy is likely to lead to inconsistencies in the decision making process which is contrary to paragraph 154 of the Framework. Whilst an area of farmland on the edge of a settlement may be valued by local people, this does not in itself mean it forms a valued landscape. This policy must allow a decision maker to come to a view as to whether this particular location contains physical attributes that would ‘**take it out of the ordinary**’. **Local residents may raise particular concern with** development on the edge of Fairford if it forms an area of accessible countryside within the Town. However, an **area’s** generally pleasant sense of openness and the potential for views across an area to open countryside beyond cannot on their own amount to a valued landscape (notwithstanding the lack of views to open countryside in this instance, given intervening built form at The Mere, Burdocks and the Fairford Gate development to the west and south west in particular).
- 4.3.41 Policy FNP12 is therefore considered contrary to basic condition (a) as it does not provide a clear indication of how a decision maker should react to a development proposal²⁶.

Policy FNP14: Achieving High Standards of Design

- 4.3.42 Paragraph 59 of the Framework is clear that design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.
- 4.3.43 Whilst supporting the principle of good design, Gladman submit that the detailed requirements of this policy place an undue policy burden on the ability of development proposals to be delivered viably. In this regard, Gladman object to the following criteria:

²⁶ NPPF Paragraph 154

“14. All houses should be provided with a water butt to receive rainwater from the roof. This is particularly important in Fairford which suffers so badly from high groundwater levels and surface water flooding.

15. It is not appropriate for existing ground levels to be raised to accommodate surface flooding **designs or attenuation systems in new developments, as this would increase flood risk to others.”**

4.3.44 Water butts are one of a range of potential SuDS options applicable to residential developments. However, all SuDS drainage schemes are designed to limit runoff from a development to pre-development runoff rates including allowance for climate changes - which results in a betterment through the lifetime of a development and the range and where for example SuDS attenuation storage is the best option and can be sized appropriately, water butts would not be necessary.

4.3.45 Gladman has already addressed the appropriateness for raising existing ground levels in response to FNP6 (see appendix 1). In addition, there is no evidence to support that doing this would increase flood risk to other areas. Criteria 15 is not in accordance with national policy and guidance with regards to flood risk attenuation measures or the need for proportionate, robust evidence to support the Plan.

4.3.46 In addition, Gladman object to criteria 16 which states:

“16. Other than exceptional circumstances, existing land contours should be maintained and the final scheme should reflect those original contours. Justified hydrological reasons are not, on their own, sufficient; of greater importance is the visual impact of increased land levels, an impact which must be positive and not detract from the quality of the adjacent landscape/townscape.”

4.3.47 **No information is provided to justify the inclusion of ‘exceptional circumstances’ and this will likely lead to inconsistencies being made through the development management process. Within the Framework, the ‘exceptional circumstances’ test for new development proposals is only featured in respect of development within nationally protected designations (i.e. AONB, National Parks etc.), which provides a specific national policy designation which indicates that development should be restricted. As such, there is no justification for the exceptional circumstances test and this should be deleted. Moreover, whilst visual impact is a matter that should be weighed through the planning balance exercise in any event, there is no evidence or justification behind the retention or maintenance of existing contours as a means of limiting impact on adjacent landscapes or townscapes, particularly where an increase in land levels itself is not the cause of the impact. Furthermore, where a change in levels being required for hydrological reasons is not uncommon the wording of this policy could result in a blanket restriction on development if ‘exceptional circumstances’ cannot be identified.**

4.3.48 The overly prescriptive and restrictive approach of this policy in relation to design measures is inconsistent with the approach to design taken by the Framework and is therefore contrary to basic conditions (a) and (d). Gladman submit that restrictive design requirements included in the FNP should be deleted.

Policy FNP15: Conserving non-designated heritage assets

4.3.49 This policy seeks to designate a total of 35 buildings and structures as non-designated heritage assets. It states that:

“Proposals for a changes of use or alteration that will result in harm to the local social, historical and/or architectural significance of a non-designated heritage asset, or for its demolition, will be resisted.”

4.3.50 This policy is not in accordance with the requirements of national policy. Paragraph 132 to 134 of the Framework relate specifically to designated heritage assets and highlight that the more important the asset the greater the weight that should be attached to it. This policy will need to make a distinction and recognise that there are two separate balancing exercises which need to be undertaken for designated and non-designated heritage assets.

4.3.51 Paragraph 135 of the Framework relates specifically to non-designated heritage assets and the policy test that should be applied in these instances is that a balanced judgment should be reached having regard to the scale of any harm and the significance of the heritage assets. The FNP fails to reflect this position and applies a blanket approach for all non-designated heritage assets regardless of the scale of harm or significance of the asset.

4.3.52 **Gladman note that the FNP identifies ‘18b The Short Piece Stile’ and ‘35. The Short Piece and Carters Ground’** as non-designated heritage assets, neither of which featured in the pre-submission Regulation 14 version of the draft Plan.

4.3.53 The PPG advises that:

“Before the formal pre-submission consultation takes place a qualifying body should be satisfied that it has a complete draft neighbourhood plan or Order. It is not appropriate to consult on individual policies for example. Where options have been considered as part of the neighbourhood planning process earlier engagement should be used to narrow and refine options. The document that is consulted on at the pre-submission stage should contain only the preferred approach.”²⁷

4.3.54 No consideration of land off Horcott Road was given in the pre-submission Regulation 14 version of the draft Plan with regard to it being identified as a non-designated heritage asset.

4.3.55 Policy FNP15 **merely seeks to ‘resist’ development proposals. Indeed, Gloucestershire County Council heritage officer confirmed in respect of Gladman’s proposal for land off Horcott Road that:**

“The retention of the existing two field enclosures, and the existing mature hedgerow and trees between them is welcomed, as this respects the existing pattern of land divisions. The retention of the field shelter and its associated enclosure is welcomed, preserving this heritage asset and leaving an important reference to the former agricultural use of the land.

²⁷ Paragraph:049 Reference ID: 41-049-20140306

The relationship of this field shelter to the open space, and the proposed allotments, is also considered appropriate.

There are no objections to the scheme on the grounds of physical impacts on non-designated heritage assets, nor impacts on their settings. The requirements of Section 12 of **the NPPF are considered to be met in this respect.**"

4.3.56 The guidance published by Historic England (HE)²⁸ states at paragraph 12:

"While local heritage listing can be a legitimate response to an actual or perceived threat to a heritage asset, including the threat of demolition, the level of protection afforded is influenced by the manner in which the local heritage list is prepared. The sounder the basis for the addition of an asset to the local heritage list – particularly the use of selection criteria – the greater the weight can be given to preserving the significance of the asset. The degree of consultation on the list and the inclusion of assets on it also increases that weight..." (Our emphasis)

4.3.57 Paragraph 23 of the guidance further states that:

"The management of any locally listed asset will also be easier if it is included on the list with the knowledge of the owner. As a minimum, owners should be advised of the intention to locally list an asset, including an explanation of the planning implications, but it may also be worth putting in place a process for handling appeals. Local listing is a good opportunity to develop a dialogue with **owners and to provide them with information on the local importance of their property.**" (Our emphasis)

4.3.58 Gladman has not received any notification of consultation with regards to the designation of land off Horcott Road as a non-designated asset. This can also be said for the landowner where they too have not been informed of this approach. As such, and with the suggested designation in mind, the Plan has not been prepared in accordance with the guidance provided by Historic England.

4.4 Housing Allocations:

FNP16: Delivering New Homes at Leaffield Road and FNP22: Horcott Lakes

4.4.1 Gladman note that the FNP allocates housing development of up to 80 dwellings for residential development. In addition, a further 20 dwellings will be provided through FNP22.

4.4.2 Whilst housing need and specific allocations generally will be subject to consideration at the District Local Plan Examination in Public, the approach contained in the FNP does not align with the direction taken in the emerging Local Plan. This is contrary to the PPG which states:

"Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan.

²⁸ Local Heritage Listing: Historic England Advice Note 7

A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft neighbourhood plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development.

Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

- The emerging neighbourhood plan
- The emerging Local Plan
- The adopted development plan

with appropriate regard to national policy and guidance.

The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination.

The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.²⁹ (Our emphasis)

- 4.4.3 It cannot be said that the neighbourhood plan has regard to the direction contained in the emerging Local Plan. Indeed, this is supported by several references contained in the Sustainability Appraisal **'At the very least, the Town Council expects the housing allocations of Policy S5 are deleted and are replaced by the provisions of the Neighbourhood Plan.'** This statement does not suggest that the Plan has been prepared through effective collaboration between the two councils. The PPG makes clear that:

²⁹ Paragraph: 009 Reference ID: 41-009-20160211

“A neighbourhood plan can allocate sites for development. A qualifying body should carry out an appraisal of options an assessment of individual sites against clearly identified criteria....”³⁰

- 4.4.4 Whilst the Site Assessment Report considers the individual sites against the proposed methodology there is no scoring analysis which sets out how FTC has come to the conclusion of which sites should be allocated. In addition, the statements made in relation to each of the methodologies has not been consistently applied through the site assessment process.
- 4.4.5 The **Examiner’s Report to the Storrington, Sullington and Washington Neighbourhood Plan**³¹ identified that the lack of suitable and sustainable locations for housing delivery in respect of more sustainable options for growth (that had been disregarded) led to the Plan failing to meet the neighbourhood plan basic conditions. This was due to the fact that inaccurate scoring had been applied to sites and therefore resulted in the Plan being found inconsistent with basic conditions (d) and (f) and subsequently prevented the Plan from proceeding to referendum. Indeed, no scoring has been used to assess the sustainability of individual sites in the **FNP’s Site Assessment Report or SA** and are simply supported by general viewpoints rather than any technical or expert evidence.
- 4.4.6 One of the issues the Examiner found in the above case was that sites selected failed to meet the test of the Framework (paragraph 38) that larger scale residential developments should be located within walking distance of key facilities such as a primary school and local shops, a similar case identified with the sites selected in the FNP.
- 4.4.7 The technical reports submitted as part of **Gladman’s** outline planning application for residential development on land off Horcott Road (CDC Reference: 16/01766/OUT) set out that the site is a sustainable location to accommodate future growth. Gladman submit that the FNP Site Assessment Report fails to provide an objective assessment of the sites considered meaning the Plan is not supported by robust evidence as required by national policy and guidance.
- 4.4.8 This issue is interlinked with the Sustainability Appraisal and should therefore be read in conjunction with section 5 of these representations.

³⁰ PPG Paragraph: 042 Reference ID: 41-042-20140306

³¹ https://www.horsham.gov.uk/__data/assets/pdf_file/0019/31483/Storrington-Sullington-and-Washington-NP-Final-Report-24.3.16.pdf

5 STRATEGIC ENVIRONMENTAL ASSESSMENT/SUSTAINABILITY APPRAISAL

5.1 Context

5.1.1 The preparation of neighbourhood plans may fall under the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) that require a **Strategic Environmental Assessment (SEA) to be undertaken where a Plan’s proposals would be likely to have significant environmental effects.**

5.1.2 **The SEA is a systematic process that should be undertaken at each stage of a Plan’s preparation. It should assess the effects of a neighbourhood plan’s proposals and whether they would be likely to have significant environmental effects and whether the Plan is capable of achieving the delivery of sustainable development when judged against all reasonable alternatives.**

5.1.3 Both the SEA Directive and Neighbourhood Planning PPG make expressly clear that an SEA Screening Assessment should be undertaken at the earliest opportunity³². Gladman approve of the **Town Council’s decision to undertake an SEA incorporating the requirements of a full Sustainability Appraisal (SA) to support the current consultation.** However, Gladman consider that the assessment has not judged reasonable alternatives in a clear and consistent manner.

5.1.4 The Environmental Assessment of Plans and Programmes states at 12(2) that:

“The report shall identify, describe and evaluate the likely significant effects on the environment of –

(A) Implementing the plan or programme; and

(B) Reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.

5.1.5 The PPG makes clear that proposals in a draft neighbourhood plan should be assessed to identify the likely significant effects of the available options and states that:

“Proposals in a draft neighbourhood plan, and the reasonable alternatives should be assessed to identify the likely significant effects of the available options (Stage C). Forecasting and evaluation of the significant effects should help to develop and refine the proposals in the neighbourhood plan.

Reasonable alternatives should be identified and considered at an early stage in the plan making process as the assessment of these should inform the preferred approach.

³² PPG Paragraph 029 Reference ID: 11-029-20150209

This stage should also involve considering ways of mitigating any adverse effects, maximizing **beneficial effects and ways of monitoring likely significant effects.**³³

5.1.6 Paragraph 038 of the PPG further states that:

“The strategic environmental assessment needs to compare the alternatives including the preferred approach, and assess these against the baseline environmental characteristics of the area and the likely situation if the neighbourhood plan were not to be made. The strategic environmental assessment should predict and evaluate the effects of the preferred approach and reasonable alternatives and should clearly identify the significant positive and negative effects of each alternative.

The strategic environmental assessment should identify, describe and evaluate the likely significant effects on environmental factors using the evidence base. Criteria for determining the likely significance of effects on the environment are set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004.

The strategic environmental assessment should identify any likely significant adverse effects and measures envisaged to prevent, reduce, and, as fully as possible, offset them. Reasonable alternatives must be considered and assessed in the same level of detail as the preferred approach intended to be taken forward in the neighbourhood plan (the preferred approach). Reasonable alternatives are the different realistic options considered while developing the policies in the draft plan. They must be sufficiently distinct to highlight the different environmental implications of each so that meaningful comparisons can be made. The alternatives must be realistic and deliverable.

The strategic environmental assessment should outline the reasons the alternatives were selected, the reasons the rejected options were not taken forward and the reasons for selecting the preferred approach in light of the alternatives. It should provide conclusions on the overall environmental impact of the different alternatives, including those selected as the preferred approach in the neighbourhood plan. Any assumptions used in assessing the significance of effects of the neighbourhood plan should be documented.

The development and appraisal of proposals in the neighbourhood plan should be an iterative process, with the proposals being revised to take account of the appraisal findings. This should **inform the selection, refinement and publication of the preferred approach for consultation.**” (our emphasis)³⁴

5.1.7 **The Town Council’s decision making and scoring should be robust, justified and transparent and** should be undertaken through a comparative and equal assessment of each reasonable alternative. Too often SEA flags up the negative aspects of development whilst not fully considering the positive

³³ PPG Paragraph: 037 Reference ID: 11-037-20150209

³⁴ Paragraph: 038 Reference ID: 11-038-20150209

aspects which can be brought about through new opportunities for housing development and how these can influence landscape issues, social concerns and the economy.

- 5.1.8 Gladman submit that greater consideration to baseline objectives is required. Although the SEA/SA assesses the FNP's proposals against 8 objectives, it does not seek to consider the impact of the FNP's policies and the likely significant effects against the individual baseline objectives identified in Schedule 2, paragraph 6 of the SEA Regulations.

5.2 Stonegate Judgment

- 5.2.1 Gladman highlight the recent judgment in the High Court³⁵. This is a significant decision and applicable to the present case in Fairford and identifies that:

1. It is incumbent on plan makers, the independent Examiner and the making authority that the Plan is compliant with EU legislation.
2. The plan maker is required to undertake an objective assessment of the policies of the plan when discharging the duty above.
3. That alternatives need to be accurately presented in order for the SA/SEA of a Plan to comply with European legislation.
4. All key policies of the plan need to be assessed against reasonable alternatives to have a EU law compliant SA/SEA.

5.3 Haddenham Neighbourhood Plan

- 5.3.1 The issue of adequate SEA testing was also considered in the decision by Aylesbury Vale District Council to no longer contest a legal challenge made by Lightwood Strategic in response to the housing policies contained in the Haddenham Neighbourhood Plan, due to inaccurate scoring being applied to individual housing sites. This subsequently led to the quashing of the housing and development chapter of the Haddenham Neighbourhood Plan.

- 5.3.2 **In light of the Examiner's Report, high court order³⁶** and subsequent appeal decision by the Secretary of State³⁷ in the Haddenham case. Without undertaking an assessment of reasonable alternatives for sites to be allocated within the Plan based on a consistent methodology it is difficult to see how FNP has arrived at the decision to allocate land for housing.

³⁵ R. (Stonegate Homes Ltd) v Horsham District Council and Henfield Parish Council [2016] EWHC 2512 (Admin)

³⁶http://www.aylesburyvaledc.gov.uk/sites/default/files/page_downloads/Decision%2007.03.16%20Consent%20Order.PDF

³⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/527095/16-06-02_DL_IR_Haddenham_Aylesbury_3014403.pdf

5.4 Sustainability Appraisal and Site Assessment Report

- 5.4.1 In the Stonegate instance, the Parish Council had prepared the neighbourhood plan on the basis of a spatial strategy that favoured development in a particular location due to highway impact advocated by the Parish Council. However, the outcome of a S78 appeal for an unrelated scheme revealed no impact to the local highway network would occur in this location. This evidence was available to plan makers, the local planning authority and the Independent Examiner, all of whom did not grapple with the issue relating to EU legislation for the rejection of the potential expansion of an area as a reasonable alternative to residential development.
- 5.4.2 Through the preparation of the FNP, the Town Council should have ensured that the results of the SEA/SA clearly justify its policy choices. In meeting development needs of the area, it should be clear from the results of this assessment why some policy options have progressed, and others have been rejected. This must be undertaken through a comparative and equal assessment of each reasonable alternative, in the same level of detail for both chosen and rejected alternatives.
- 5.4.3 Whilst the SA has been updated, Gladman assert that this document remains simplistic and flawed with regard to the judgments made in assessing **the FNP's preferred approach and reasonable alternatives** in relation to site selection.
- 5.4.4 Upon reviewing the SA and Site Assessment Report it is entirely unclear as to how FTC have arrived at the strategy that forms the basis of the plan over the plan period. The SA should have looked at the variety of ways in which the development needs of the Town (and wider district) could be delivered to ascertain which was the most appropriate approach having regard to the three limbs of sustainable development. This should have been undertaken in a systematic manner and robust testing through the SA process and other supporting evidence base documents (i.e. Site Assessment Report).
- 5.4.5 Whilst the Local Plan SA considered locations for growth, these were undertaken on the basis of broad locations of growth rather than site specific analysis. Indeed, Gladman note the Site Assessment Report which supplements the findings of the SA. However, upon reviewing the site assessment evidence it is clear the assessment merely provides views based on public opinion rather than robust technical evidence.
- 5.4.6 Whilst the evidence has sought to consider some factors, it remains unclear how these various factors have scored. Indeed, it is contested that land off Horcott Road;
- Would not lead to an increased risk of flooding and sewage pollution as supported by the technical evidence supporting the outline planning application. There is no evidence to support the reference made in FNP16 assessment that Ground Water SPZ 2 can be effectively mitigated against.
 - It is not '**relatively remote from the main town social facilities**' as it is located significantly closer to local services than **the Plan's preferred options**.
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- It is agreed that the site is within walking distance of Horcott Industrial Estate but it is contested **why the suggested 'limited capacity' of the estate is considered** as part of the assessment when this is not part of the consideration **in terms of the Plan's preferred options**.
- 5.4.7 The above represents only some of the inconsistencies included in the SA and Site Assessment reports. Gladman submit that the lack of subjective consideration of how the planning judgments have been made in the supporting evidence results in an arbitrary assessment.
- 5.4.8 Gladman consider that the FNP is not consistent with the Plan's European Obligations and is therefore inconsistent with basic condition (f).
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6 SITE SUBMISSION

6.1 Land off Horcott Road, Fairford

6.1.1 **The Town Council will be aware of Gladman’s land interests in Fairford, at** land off Horcott Road (Appendix 2 of this submission provides a location Plan). Gladman consider that development of this site represents a logical and sustainable extension of Fairford to meet market and affordable housing needs together with wider community infrastructure benefits.

6.1.2 An outline planning application (planning reference: 16/01766/OUT) for residential development of up to 92 dwellings was submitted to CDC for consideration. This application was refused by CDC but is subject to an appeal for which a public Hearing was held 15th March 2017.

6.1.3 Notwithstanding **CDC’s reasons for refusal** which were the subject of discussion at the public Hearing, the delivery of this scheme will deliver significant benefits to Fairford and the District including to the local economy during the construction phase and an increase in public spending of new residents, therefore ensuring the longevity of essential key facilities and services that serve the settlement for both existing and future residents.

6.1.4 The site extends to 4.44 ha and is located to the west of Horcott Road. Existing residential development bounds the site to the north, south and west of the site. To the south west of the site are Mere Park, Mere Farm House, Mere Coach House and other residential properties. To the northwest is agricultural land which is bounded to the north by Cirencester Road. To east of the site (on the opposite side of Horcott Road) are playing pitches of Colne House School and the River Colne floodplain. Land to the west of the site was granted outline planning permission for 120 dwellings and is currently under construction by Bloor Homes, albeit the homes closest to and along the boundary of the Gladman site have been completed and are occupied. On the wider western side of Fairford, permission was granted by CDC for land to the north of Cirencester Road for 161 dwellings. These previous decisions demonstrate that development located to the west of Fairford is sustainable and has been considered so by different Inspectors and CDC.

6.1.5 The proposal will deliver numerous benefits to the local community including:

- Up to 92 dwellings, of which up to 50% will be affordable.
 - Mix of housing sites that will predominately comprise semi-detached and detached family dwellings of typically 3, 3 or 4 bedrooms.
 - Highway and associated infrastructure works, including pedestrian links
 - On site surface water attenuation pond.
 - The form of the proposed development has been guided by an understanding of the landscape and visual characteristics of the site and its wider context. Formal and informal public open space including a Locally Equipped Area of Play that will be accessible to both current and future resident and landscaping measures to ensure that the site ensures an appropriate landscape setting to surrounding uses.
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- Provision of allotment gardens and the retention/enhancement of the existing on site field barn
- 6.1.6 It is not the place of the neighbourhood plan to restrict the delivery of sustainable development opportunities such as that provided on land off Horcott Road, in the manner in which the FNP seeks to do so. Such an approach would be contrary to the very principles of national policy and indeed basic conditions (a) and (d).
- 6.1.7 Given the above, Gladman consider that the site should be included in the Fairford Neighbourhood Plan as it provides a sustainable location for future growth, consistent with the requirements of the Framework which make clear that development that is sustainable should proceed without delay, in accordance with the presumption in favour of sustainable development.
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7 CONCLUSIONS

- 7.1.1 Gladman recognises the Government’s ongoing commitment to neighbourhood planning and the role that such Plans have as a tool for local people to shape the development of their local community. However, it is clear from national guidance that the FNP must be consistent with national planning policy and the need to take account of up-to-date housing needs evidence and the emerging policy direction provided in the emerging Local Plan.
- 7.1.2 Despite our previous representations, it is disappointing to see that the FNP has not been revisited during the short period between Regulation 14 (pre-submission) and Regulation 16 (submission) drafts to allow for sufficient flexibility and the need to ensure that its policies and the rationale behind them are supported by robust and justified evidence.
- 7.1.3 Gladman are still of the opinion that the Plan is unable to meet a number of the basic conditions required of neighbourhood plans in its current form. Whilst some of these issues could be dealt with through modifications, it is our opinion that the amount of modifications needed would likely alter the Plan to such a degree that it would represent a completely different document than the one that has been submitted for consultation.
- 7.1.4 Moreover, the lack of consistency between the FNP and national policy, guidance and the direction taken in the emerging Local Plan is a significant issue which provides an example of the FNP, in its current form, being inconsistent with the basic conditions required of neighbourhood plans. Other significant issues relate to the FNP allocation site selection process and the restrictive approach taken by the FNP in several instances which cannot readily be dealt with through modification, but which will require a complete overhaul in order to make the FNP policy compliant and consistent with the required basic conditions.
- 7.1.5 Gladman consider that the Plan should not proceed to Examination as it is considered inconsistent with several basic conditions. However, should the Plan proceed to Examination then Gladman respectfully request that the FNP Examiner opens up the Examination of the FNP to allow for public discussion of the issues raised and we formally ask that we are afforded the opportunity to participate at the requested public hearing session(s) in due course.
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