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## **RE: Batchworth Neighbourhood Area Designation Consultation**

Gladman Developments Ltd (Gladman) specialise in the promotion of strategic land for residential development with associated community infrastructure. This letter provides Gladman's representations on the application made by Tockenham Parish Council for the designation of a neighbourhood area, for the purposes of preparing a neighbourhood development plan.

As this is the first formal stage of preparing a neighbourhood plan, Gladman would like to take this opportunity to comment on the Tockenham Neighbourhood Area application to highlight a number of key requirements to which the development of the emerging neighbourhood area should have regard.

### **Legislation**

Before a Neighbourhood Plan can proceed to referendum it must be tested against a set of Neighbourhood Plan Basic Conditions, set out in §8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended by section 28a of the Planning and Compulsory Purchase Act 2004). The Basic Conditions which the Neighbourhood Plan must be found in compliancy with are as follows:

*Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan*

*The making of the neighbourhood plan contributes to the achievement of sustainable development*

*The making of the neighbourhood plan is in general conformity with the strategic policies contained within the development plan for the area of the authority*

*The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations*

If the Neighbourhood Plan is not developed in accordance with all of the Neighbourhood Plan Basic Conditions as set out above then there is a real risk that it will fail when it reaches Independent Examination.

### **Crownhall Judgment**

On 21<sup>st</sup> January 2016, Holgate J handed down judgment in R(Crownhall Estates Ltd) v Chichester District Council [2016] EWHC 73 (Admin). This judgment summarises the respective legislation at §12-§28 (further detailed below), and the relevant principles at §29.

This judgment does not however mark the end of policy development, on 11<sup>th</sup> February 2016, the Secretary of State published a series of updates to the Neighbourhood Planning chapter of the Planning Practice Guidance (PPG). In particular, the PPG now stresses the importance of housing reserve sites and providing indicative delivery timetables to ensure that emerging evidence of housing needs is addressed to help minimise any potential conflicts that can arise to ensure that a neighbourhood plan is not ultimately overridden by the contents of an emerging Local Plan.

It is important to note that the updates to the PPG were drafted following the Crownhall judgment and it is essential that the Parish Council consider all of the advice and guidance contained in the PPG.

### **National Planning Policy Framework**

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 sets out the requirements for the preparation of Neighbourhood Plans and the role they must play in meeting the development needs of the local area in which they control.

Paragraph 16 of the Framework sets out the positive role that Neighbourhood Plans should play in meeting the development needs of the local area. It states that:

*"The application of the Presumption (In Favour of Sustainable Development, set out in paragraph 14 of Framework) will have implications for how communities engage in neighbourhood planning. Critically it will mean 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 of the strategic elements of the Local Plan"*

Further guidance on the relationship between Neighbourhood Plans and strategic policies for the wider area set out in a Council's Local Plan is included in paragraph 184 of the Framework:

*"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 plan is in place as quickly as possible. Neighbourhood Plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood Plans... should not promote less development than set out in the Local Plan or undermine its strategic policies".*

It is clear from the above that neighbourhood plans should be prepared in conformity with the strategic requirements for the wider area as confirmed in an adopted Development Plan. As highlighted above, on 11<sup>th</sup> February 2016, the Secretary of State published a series of updates to the PPG for the preparation of neighbourhood plans. This update makes clear that neighbourhood plans should take account of the latest and up-to-date evidence of housing needs. Where a qualifying body is attempting to identify and meet housing needs, a local planning authority should share relevant evidence on housing need gathered to support its own plan making.

Neighbourhood Plans should also provide indicative delivery timetables and consider the allocation of reserve sites to ensure that emerging evidence of housing need is addressed in order to help minimise any potential conflicts where a post Framework Local Plan is yet to be adopted.

A further update to the PPG was published on 19<sup>th</sup> May 2016. Paragraph 50 of the PPG<sup>1</sup> makes clear that all settlements have a role to play in delivering sustainable development and should avoid blanket policies restricting housing development. Accordingly, the neighbourhood plan should not include policies that would act to arbitrarily preclude the delivery of sustainable development coming forward within the neighbourhood area.

#### Relationship with Local Plans

To meet the requirements of the Framework and the Neighbourhood Plan Basic Conditions, Neighbourhood Plans should be prepared to conform to up-to-date strategic policy requirements set out in Local Plans. Where an up-to-date Local Plan has been adopted and is in place for the wider authority area, it is the strategic policy requirements set out in this document that a Neighbourhood Plan should seek to support and meet. When a Local Plan is emerging or is yet to be found sound at Examination, there will be lack of certainty over what scale of development a community must accommodate or the direction the policies in the Neighbourhood Plan should take.

#### Adopted Development Plan

The adopted Development Plan relevant to the preparation of the Batchworth Neighbourhood Plan consists of the Three Rivers Core Strategy adopted in October 2011, the Development Management Policies DPD, adopted in July 2013 and the Site Allocations DPD adopted in November 2014. The Core Strategy covers the period from 2011 to 2026 and provides the overarching spatial strategy for the District.

#### Emerging Local Plan

The Council is preparing a new Local Plan for Three Rivers which will provide the planning policies and proposals for future sustainable growth in the District up to 2032. It is expected that the Plans Preferred Options will be consulted upon in June this year with a Publication Consultation and Submission to the Secretary of State in Spring next year. Batchworth Community Council should monitor the progress of this emerging plan drafting policies in its' Neighbourhood Plan with flexibility whilst aligning sufficiently with the direction of the new Local Plan. Failure to provide sufficient flexibility could lead to conflict with the Local Plan and elements of the Batchworth Neighbourhood Plan superseded, as Section 38(5) of the Planning and Compulsory Purchase Act 2004 states:

*'If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published (as the case may be).'*

### **Neighbourhood Plan Policies and Proposals**

In accordance with the Neighbourhood Plan Basic Conditions, Neighbourhood Plan policies should align with the requirements of the Framework and the wider strategic policies for the area set out in the Council's Local 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.

The Framework is clear that Neighbourhood Plans cannot introduce policies and proposals that would prevent development from going ahead. They are required to plan positively for new development, enabling sufficient growth to take place to meet the strategic development needs for the area. Policies that are clearly worded or intended to place an unjustified constraint on further sustainable development taking place would not be consistent with the requirements of the Framework or meet the Neighbourhood Plan Basic Conditions.

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<sup>1</sup> PPG Reference ID 50-001-20160519

Communities should not seek to include policies in Neighbourhood Plans that have no planning basis 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 should be designed to add value to policies set out in Local Plan and national guidance, as opposed to replicating their requirements.

The community should liaise with the Council's planning team to seek advice on the appropriateness of the Neighbourhood Plan's proposals.

### **Sustainability Appraisal/Strategic Environmental Assessment**

The preparation of a Neighbourhood Plan 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. The requirement to undertake an SEA will be dependent on a Neighbourhood Plan's proposals, but is likely to be necessary where a Plan is proposing specific allocations or site designations.

In accordance with Schedule 1 of the SEA Regulations, a Screening Assessment of a Neighbourhood Plan's proposals should be completed to assess whether an SEA must be prepared. Where an SEA is required this should be commenced at the earliest opportunity, alongside the preparation of the emerging Neighbourhood Plan, to ensure the Neighbourhood Plan's proposals have been properly considered through the SEA process, and appropriately justified against other reasonable alternatives. Where an adequate SEA has not been undertaken a Neighbourhood Plan is unlikely to meet the Neighbourhood Plan Basic Conditions.

Although Neighbourhood Plans do not require a Sustainability Appraisal (SA) of their proposals, preparing an SA can help to show how a Neighbourhood Plan will contribute to the achievement of sustainable development, a Neighbourhood Plan Basic Condition. Where an SEA is required, extending this assessment to the preparation of an SA is unlikely to require significant additional input.

The Council's planning team will be able to advise on the likely need for an SEA of the Neighbourhood Plan's proposals. To be compatible with EU obligations, further appraisals, such as a Habitats Regulations Assessment, may also be required depending on local circumstances.

Should you require any further information about the contents of this response then please do not hesitate to contact me or one of the Gladman team.

Yours Faithfully,



Gladman Developments Ltd.

