

Spatial Planning Services
Civic Centre, Duke Street, Chelmsford,
Essex CM1 1JE

Date: 19 August 2024
Telephone: 01245 606265
E-mail: jenny.robinson@chelmsford.gov.uk

Your ref: 02/AF/DNP

Dear Mr Freeman,

Independent Examination of the Danbury Neighbourhood Development Plan

Thank you for your Letter relating to the Procedural Matters and Questions for the Danbury Neighbourhood Plan Examination.

Chelmsford City Council has answered Questions 1 to 3, and Danbury Parish Council has provided responses to Questions 4 to 34. All the responses have been agreed by both councils. The responses are attached as an Annex to this letter.

I have also received further relevant comments from Savills on behalf of their client Medical Services Danbury, attached to this letter at Appendix 4.

If either the City Council or Parish Council can provide further information, please let me know.

Yours sincerely,

Jenny Robinson

Jenny Robinson
Senior Planning Officer

ANNEX

Questions for Chelmsford City Council

1. Please confirm the date on which the Danbury Neighbourhood Area was designated (the City Council's website says 9 March 2016; the Parish Council says 9 June 2016).
 - The date for the designation of the Danbury Neighbourhood Plan Area was 9 June 2016. This has been corrected on the City Council's website.
2. Please confirm the date on which the Regulation 16 consultation commenced.
 - The Regulation 16 consultation commenced on 8 May 2024 (and closed on 19 June 2024).
3. Having regard to the representations submitted on behalf of Medical Services Danbury in Sections 5.17 to 5.19 of Savills' Planning Statement (DNP-131), please advise on the related consultation as carried out by the City Council on the Strategic Environmental Assessment (SEA). Please also see question 4 below, which the City Council may too wish to comment on.
 - Chelmsford City Council considers that the requirements of Regulation 13 of The Environmental Assessment of Plans and Programmes Regulations 2004 have been met. Notification of the consultation was sent to each consultation body (being Historic England, Natural England and the Environment Agency). The SEA was published as one of the Submission Documents to the Regulation 16 consultation, under the reference 7-Danbury NP Strategic Environmental Assessment. This can still be accessed in the following locations: <https://www.chelmsford.gov.uk/planning-and-building-control/planning-policy-and-local-plan/consultations-on-planning-policy/consultation-on-danbury-neighbourhood-plan/> ; and on the Council's Consultation Portal at <https://consult.chelmsford.gov.uk/kse/event/37967>

It was clear that the SEA was part of the Submission, as distinct from other background evidence documents which were listed separately. This approach is supported by Stage E of the Flowchart: strategic environmental assessment process as it relates to Neighbourhood Plans (available at https://assets.publishing.service.gov.uk/media/5a81b42ded915d74e6233b1e/sea2_033_2015_0209_fixed.pdf [Accessed 08/08/24]); which is published as part of the Government's guidance to SEA/SA (available at <https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal#Strategic-environmental-assessment-process> [Accessed 08/08/24]).

Questions for Danbury Parish Council

4. Was Natural England specifically consulted on AECOM's SEA for the Danbury Neighbourhood Plan and, if so, please supply a copy of any reply received?
 - Natural England was included in AECOM's Scoping consultation for the SEA which ran from 11 October to 15 November 2019. Their response is included in Appendix B (on Page 61) of the final SEA (March 2024), referenced in the Submission Documents as 7 - Danbury NP Strategic Environmental Assessment (available at www.chelmsford.gov.uk/media/kehcrldf/7-strategic-environmental-assessment.pdf).

5. Is the Parish Council satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998)?
- The Parish Council satisfied that the Plan does not breach Human Rights and, whilst not expressly including a reference to the Act, this is set out in the submitted Equalities Impact Assessment. This can be accessed via this link: www.chelmsford.gov.uk/media/rftplfrv/6-equalities-impact-assessment.pdf
6. Please confirm the dates of the Regulation 14 consultation.
- The Regulation 14 consultation took place from 1 February to 15 March 2023.
7. Policy DNP1: Various representors have indicated that there would be insufficient housing provision and variety, including affordable housing and housing for the elderly. Notwithstanding the Local Plan allocation of around 100 new homes, has greater provision been considered / dismissed and, if so, why?
- The allocations are intended to provide housing to meet the requirements of Strategic Growth Site Policy S13 of the adopted Chelmsford Local Plan. This requirement is for homes of a mixed size and type including affordable housing.
The Regulation 14 version of the Plan was drafted based on Danbury specific housing needs identified in Supporting Document 20 - Danbury Housing Needs Assessment. Following representations received, Policy DNP2 2) now clarifies the requirement for the size and mix of homes to instead meet the requirements of Local Plan Policy DM1.
DNP2 3) now includes a provision covering small developments less than 10 houses which seeks to provide housing specific to Danbury's needs.
- Greater provision than the 'around 100 new homes' set out in Local Plan Policy S13 was considered. The Parish Council's starting point for allocation sites was to assess all submitted sites against the criteria set out in Paragraph 5.5 a). The sifting process led to the conclusion that there was a limited amount of land available that met the selection criteria, in particular having access from a Priority 1 or Priority 2 Road – as defined in the Introduction to Supporting Document 26 – Impact on Local Highways Network (available at www.danburyneighbourhoodplan.com/uploads/1/0/3/9/103909068/26_impact_on_local_highway_network_-_march_2022.pdf). Greater provision was not considered to be achievable.
8. Site A – Vehicular access: In the light of the representation from Mr Thombs (DNP-133), is the Parish Council satisfied that vehicular access can be provided to the site, as envisaged?
- The Parish Council is satisfied that vehicular access can be provided to Site A. The charity have confirmed that in conveying land to the builder of the existing houses in Little Fields they reserved a right of way over the land at all times and for all purposes with or without vehicles or animals.
9. Site B: Which figure shows the correct boundary (Figure 5 is different from Figure 7)?
- Richborough's response includes their Appendix A (attached to this letter referenced Appendix 1) which provides a confirmed site boundary which will be used in both Figure 5 and 7 in relation to Site B.

10. Site B: Please comment on the representations of Richborough (DNP-67).

DNP-67, Paragraph 2.1

- Paragraph 2.1 summarises the Housing and Development main Objective which should remain unchanged. This is further emphasised through the detail of Policy DNP2.

DNP-67, Paragraph 2.7

- Richborough's response includes their Appendix A (attached to this letter referenced Appendix 1) which provides a confirmed site boundary which will be used in both Figure 5 and 7 in relation to Site B.

DNP-67, Paragraph 2.9

- The wording in Paragraph 2.9 relating to the access arrangements for Site B was put forward by ECC (and consequently supported by CCC) at Regulation 14 consultation stage. This is shown in Submission Document 5 - Consultation Statement, page 166, ID 37 (available at www.chelmsford.gov.uk/media/rkqphoi4/5-consultation-statement-january-2024.pdf).

DNP-67, Paragraph 2.12

- It is considered that the level of detail at Site B 3) will assist in determining future planning applications.

DNP-67, Paragraph 2.13

- The intention of requiring early planting is to mitigate the visual impacts of development from all sides, so that landscaping is well-established. With open views available from the east and south east, higher numbers of public and private views will be possible, including from the nearby Public Right of Way. Whilst the detail can be considered during the determination of the application, it is considered that retaining the requirement in the policy for Site B 3) will assist in this determination.

DNP-67, Paragraph 2.14

- Natural England welcomed Site B 4) in their response to the Regulation 14 consultation stage. This is shown in Submission Document 5 - Consultation Statement, page 205, ID 325 (available at www.chelmsford.gov.uk/media/rkqphoi4/5-consultation-statement-january-2024.pdf).
- However, it is considered that reference to compliance with DNP9 could be deleted, as suggested.

DNP-67, Paragraph 2.16

- ECC welcomed Site B 5) in their response to the Regulation 14 consultation stage. This is shown in Submission Document 5 - Consultation Statement, page 165, ID 39 (available at www.chelmsford.gov.uk/media/rkqphoi4/5-consultation-statement-january-2024.pdf).

DNP-67, Paragraph 2.20

- This suggested change to Site B 10) is considered to be helpful and would be acceptable to the Parish Council.

DNP-67, Paragraph 3.4 (in relation to Policy DNP8)

- The Parish Council does not agree with the suggested amendment to DNP8. The following alternative is suggested:
'Development proposals resulting in the loss of accessible open space (as defined on Figure 12) will not be supported.'

11. Site B 3a (and elsewhere) – “Protect existing trees”: Does this mean ‘root protection’ or ‘avoid removal’?

- Protection from both scenarios is sought where appropriate. We suggest the following amendment at the start of criterion Site B 3) a):
‘Protect existing trees and hedges from removal or harm across the site including at the site entrance;’

12. Site B 3b: What is meant by “multifunctional green infrastructure”?

- This wording related to multifunctional green infrastructure was put forward by ECC at Regulation 14 consultation stage. This is shown in Submission Document 5 - Consultation Statement, page 163, ID 18 (available at www.chelmsford.gov.uk/media/rkqphoi4/5-consultation-statement-january-2024.pdf).
- The definition is included in the Plan Glossary on page 100.

13. Site B 3f: What elements constitute “mitigation planting”? Is *all* such planting required prior to a commencement of ground works?

- Mitigation planting is identified in Site B 3) b), c), d) and e). It is considered that planting should be commenced at the start of groundworks to allow early establishment. Attached is an Illustrative Plan (attached to this letter referenced Appendix 2) issued in February 2024 - this shows strong landscaped edge, filtering views of the new development from all sides.

14. Site B 3g (and elsewhere) – “Dwelling boundaries within the site should include natural hedging”: Is this requirement intended to apply to garden boundaries between dwellings. If so, how reasonable and practical would this requirement be?

- The intention is to soften rigid garden boundaries between dwellings, e.g. a low fence with hedging.

15. Site B 7 – Does the reference mean connections to pedestrian and cycle routes *adjacent to the site*?

- Yes, the reference in Site B 7) relates to connections to existing routes adjacent to the site.

16. Site C 4 – Existing planting to be reinstated: Does this mean ‘taken out and re-planted’ or ‘replaced’?

- Where planting needs to be removed at Site C, we are seeking that it be replaced with native varieties and should be informed by The Essex Design Guide and the Danbury Design Guide.

17. Site D: Please comment on the representations made by Blenheim Consultancy Services (DNP-36).

DNP-36, Site D, Criterion 3

- Natural England welcomed Site D 3) in their response to the Regulation 14 consultation stage. This is shown in Submission Document 5 - Consultation Statement, page 205, ID 326 (available at www.chelmsford.gov.uk/media/rkqphoi4/5-consultation-statement-january-2024.pdf).

DNP-36, Site D, Criterion 6

- Site D 6) was included to reflect the built character surrounding the site, and to mitigate any harm to adjacent heritage assets. However, it is accepted that it could be considered to be in conflict with Policy DNP4.

DNP-36, Site D, Criterion 8

- Site D criterion 8 is already included in criterion 4, and can therefore be deleted.

18. Site D 6: What are considered to be the “adjacent heritage assets”?

- The designated heritage assets adjacent to Site D are The Cricketers and The Poplars, both in Penny Royal Road, which are both Grade II listed.

19. Site D 7: What is meant by “respect neighbouring rear boundaries”?

- Site D 7) is included to ensure that suitable distances, such as back-to-back and back-to-side distances, between existing and new properties are respected.

20. Site E: Bearing in mind the comments of Dr Rees (DPN-81), is the Parish Council satisfied that the site at Mayes Lane is deliverable?

- The Parish Council is satisfied that Site E is deliverable. The owner of the land has confirmed that they are not proposing to build on the land subject to the restrictive covenant.

21. Site E 11: What is meant by the requirement to “provide an open barrier”?

- Site E 11) is included to encourage any new gates to maintain a view through them (such as a five-bar gate), rather than a solid gate, to preserve the character of the Conservation Area.

22. Policy DPN2 is largely silent on the matter of affordable homes (other than for First Homes). Does any related reference need to be made within the policy (including to Local Plan Policy DM2)?

- The Parish Council agrees that reference could be made in Policy DNP2 to the requirements of Local Plan Policy DM2.

23. Policy DNP3 3 - Net Zero Carbon Toolkit: Is the toolkit identified in the references at the end of the Plan to be used?

- Yes, the Net Zero Carbon Toolkit is included on page 102 of the Plan under References (and can be accessed at <https://www.westoxon.gov.uk/media/2ddb125k/net-zero-carbon-toolkit.pdf>). It is the resource signposted by the Essex Design Guide (from this page <https://www.essexdesignguide.co.uk/climate-change/net-zero-carbon-toolkit/> [Accessed 8/8/24])

24. Policy DNP3 3 a): What is meant by “a consistent road frontage”?

- The Parish Council suggests the following words are deleted from Policy DNP 3 a):
’,whilst also creating a consistent building frontage to the street.’

25. Policy DNP3 3 d): What is required of applicants in carrying out “a Life Cycle Assessment”?

- Whilst DNP 3 d) is an aspiration, it is acknowledged that the necessary evidence and Local Plan policy support is still under development; and that requiring this as part of a planning application may go beyond a reasonable requirement. The following amendment is therefore suggested:

‘The use of low carbon and recycled materials should be prioritised where possible’.

26. Policy DNP3 4: Is the reference to section 5.61 correct?

- The correct cross reference in DNP3 4) is to paragraph 5.59.

27. Policy DNP4 and Paragraph 5.62 – roof height should be lower than the crown of surrounding trees: Is this an overriding requirement (that should be expressed within the policy)?

- The Parish Council suggests that the following words are deleted from paragraph 5.62: *‘and be lower than the crown of surrounding trees.’*

28. Policy DNP8 2 c): How are “target species” (and their requirements) to be identified?

- The target species for Policy DNP8 2) c) will be identified through the Biodiversity Checklist and Report that is required as a validation document by CCC at planning application stage for most development, as set out in the Local Validation Requirements List (available here: www.chelmsford.gov.uk/media/xvtn5wmc/local-validation-list-feb-2024.pdf?allId=49147).

29. Policy DNP9 4: Bearing in mind the representations of the National Trust (DNP-89), what is to happen if stakeholders are unable to commit resources to oversight groups? How will the formation of oversight group be enforced?

- The Parish Council notes the amendment proposed by the National Trust to DNP9 4) and it considers that this amendment would be helpful.

30. Policy DNP12 2: Are not all ten views identified for protection (under the first clause of the policy)?

- It is considered that Policy BNP12 would benefit from the inclusion of Views 8, 9 and 10 as already indicated on Figure 14 and in the supporting text. For clarity, this would mean adding the following wording to Part 2 of the policy:

8. Dawson Field towards the south

9. Riffhams Lane towards Riffhams House

10. From Southview Road towards Hanningfield Reservoir

Consequential changes would be needed to amend Paragraph 6.40:

Responses to the Residents’ Questionnaire (Supporting Document 11) supported the protection of the ten key views listed below in Policy DNP12. The overall importance of the key views is that they show the character of Danbury as a hilltop village with views in all directions. They give a sense of place, space, and wellbeing.

Also removal of the reference to Numbers 1 to 7 in the heading on Page 67.

31. Policy DNP13 1: Where is “the multifunctional green infrastructure network” identified?

- It is suggested that DNP13 1) could be clarified by the addition of a cross reference to Figure 12 as follows:
New developments should, where appropriate, be designed to integrate with the multifunctional green infrastructure network (as defined on Figure 12) and ...

32. Policy DNP13 1: Where is an applicant to find details of community transport?

- Information about local community transport is available via this website:
<https://www.community360.org.uk/what-we-do/community-transport/>
This link could be included in the supporting text, and/or added to the references section.

33. Policies DNP14 and 15: Please explain the need for two policies and the main intended differences between them. Policy DNP14 appears to cover community /recreational facilities. Policy DNP15 appears to cover ‘amenities’; but they are all ‘community facilities’ under Local Plan Policy DM21.

- It is considered that Policies DNP14 and 15 could be combined whilst retaining the relevant supporting text. A suggested amended policy is attached to this letter referenced Appendix 3, for the Examiner’s consideration.

34. Policy DNP16 3 – new employment development to be well integrated with and complement existing businesses: What is the thinking behind this provision? Is there scope to introduce new (unrelated) businesses?

- The aim of DNP16 3) is to avoid businesses which may be noisy/intrusive setting up in areas which are predominately retail, e.g. Eves Corner.
The Parish Council believes there is still scope to introduce new businesses whilst retaining the character of the village.

Appendix 1

PROJECT TITLE

**RICHBOROUGH
LAND AT TYNDALES FARM, DANBURY**

ISSUED BY London
DATE June 2024
SCALE@A2 1:1250
STATUS Draft

T: 020 7016 0720
DRAWN MH
CHECKED JC
APPROVED JC

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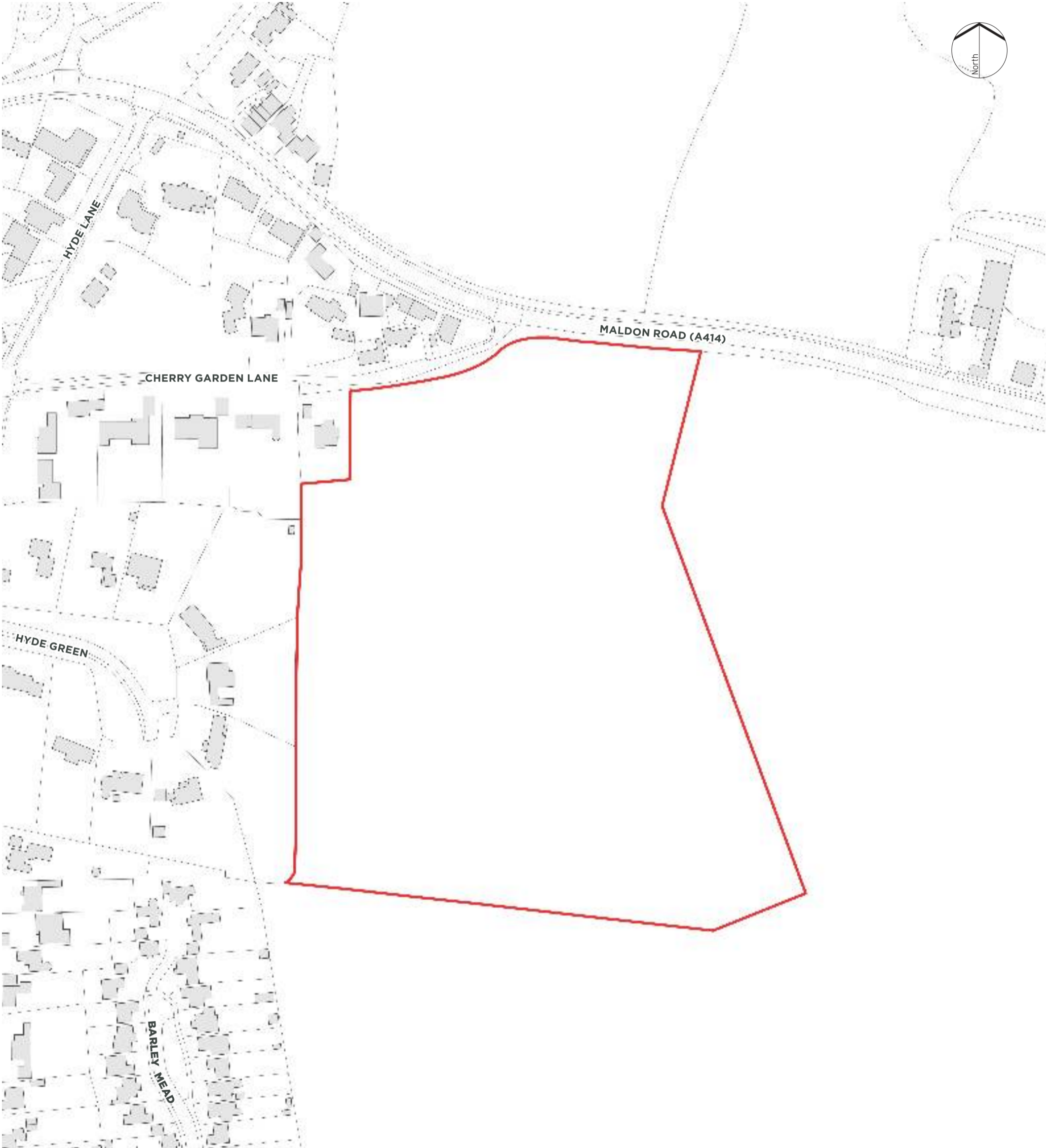
DRAWING TITLE

SITE LOCATION PLAN

DWG. NO. CJ_MP_004_Neighbourhood Plan

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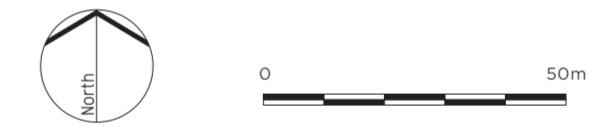
 Site boundary



Appendix 2



- Key**
-  Site boundary
 -  Residential dwelling
 -  LEAP in a natural landscape setting
 -  Footpath
 -  Public Right of Way
 -  Existing trees to be removed
 -  Wildflower planting
 -  SUDS pond
 -  Existing trees to be retained
 -  Proposed trees
 -  Community orchard with wildflower grassland
 -  Dog dipping pool
 -  Native woodland planting to provide screening
 -  Informal doorstep play with logs, stepping stones, and boulders
 -  Bus stop



Carter Jonas

PROJECT TITLE
RICHBOROUGH
LAND AT TYNDALES FARM, DANBURY

DRAWING TITLE
ILLUSTRATIVE PLAN

DWG. NO. CJ_MP_009_V3

| | | | |
|------------------|---------------|------------------|----|
| ISSUED BY | London | T: 020 7016 0720 | |
| DATE | February 2024 | DRAWN | MH |
| SCALE@A2 | 1:1250 | CHECKED | JC |
| STATUS | Draft | APPROVED | JC |

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Appendix 3

Provision of Recreational and Leisure Facilities DNP14

Policy DNP14: Provision of Recreational and Leisure Facilities

1. Existing community facilities will be protected from loss. Important local facilities in Danbury are:

| | |
|------------------------|--------------------------------------|
| Community Woodland | Football Pitches |
| Cricket Ground | Recreation Area and Basketball Court |
| Tennis Club | Bowls Club |
| Danbury Leisure Centre | Old Pavilion |
| Village Hall | Library |
| Scout Hut | Gym and exercise classes |
| Children's Play Space | Allotments |
| Church Facilities | Public Footpaths |
| Bridleways | Public Houses |

2. Proposals that involve the loss of any space used for community purposes will only be supported where an equivalent replacement for alternative provision is made for that use, and or where the application is supported by material which demonstrates the benefits to the community which outweigh the harm created by loss of that facility.

3. Proposals for new or improved community facilities in Danbury will be supported. These include:

- a) Provision of additional play space, youth play space or a community garden/ orchard/allotment in the east of the village.
- b) Provision of a cycling facility to reduce recreational pressures on Danbury Common and reducing conflicts with other uses.

4. Proposals for new **or improved** community facilities will be supported where:

- a) The proposed development would not have a significant negative impact on the surrounding amenity nor local environment.
- b) The proposed development should be accessible to all and be designed with flexibility in mind such that it can be adapted for multiple use and activity over time.
- c) The proposed development would preserve the significance of any affected **designated and non-designated** heritage assets and their setting.
- d) **The proposed development should be capable of receiving high speed and reliable mobile and broadband connectivity. Proposals will be supported where the appropriate cabling and ducting is provided to the premises and linked to infrastructure networks, enabling the fastest available connections. Where connectivity is not currently available suitable ducting that can accept gigabit broadband, fixed line gigabit cable broadband and/or 5G connectivity should be provided to the public highway or other suitable location.**

5. Where provision is made for facilities that are likely to be accessed by car, adequate off-road parking spaces should be provided.

8.2 Responses to Residents' Questionnaires (Supporting Documents 7 and 11) told us:

- a) That 90% of respondents agreed with the objective for Recreation and Leisure.

b) That 90% of respondents would support the provision of activities for young people aged 6-12 and more than 90% for young people aged 12+.

c) Almost half of respondents would use outdoor gym equipment.

d) That more than 70% of respondents would support the reduction of recreational damage caused by inappropriate use, such as at Danbury Common and Blakes Wood. It is suggested that the need for a separate facility for cyclists should be considered.

8.3 In a 2017 questionnaire with children from St John's School, they told us that:

a) Most of them use the Dawson Field and that they enjoy a range of outdoor activities including biking, football, playing with friends, visiting the parks, walking the dog and tennis. Indoor activities include trampolining, reading, gym, dancing, art, music, and baking (Supporting Document 13). Many of these activities can be undertaken in Danbury.

b) When asked what would improve the parks, the children told us that they would like more facilities including slides, a zip line, net swing, handstand wall, gym equipment and a taller climbing frame (See section 8.4 below). They would also like to see a bike track and swimming pool

8.4. The Chelmsford Open Space study identified that Danbury has a shortfall in the provision of youth play space and sports and recreation grounds (Supporting Document 22). New recreational facilities have been installed at the Dawson Memorial Field in 2022 for older children. Some areas were underutilised, and by providing more facilities in these areas particularly for children, teenagers and young adults, could reduce the occurrence of antisocial behaviour.

(Figure 17)

8.5 There is a variety of clubs and activities available for residents of all ages including indoor activities such as Bridge, photography, amateur radio, snooker, darts, Scouts and Guiding, Badminton, and a variety of gym classes. Outdoor activities include football, cricket, basketball, tennis, and bowls.

8.6 The Dawson Memorial Fields are centrally located in the village and are accessible both on foot, cycle and in the car, with cycle and parking provision.

8.7 Whilst the children's play space at Rumsey Fields has recently been upgraded by Chelmsford City Council, the space at Potters Close would benefit from being improved and will be, in time, by Chelmsford City Council.

8.8 Danbury Common, at the end closest to Copt Hill, along with other Essex Wildlife Trust areas have become a destination for Mountain Bikers. As Danbury Common is an SSSI and there is limited parking, the Parish Council does receive complaints concerning street parking and conflict between cyclists, equestrians and pedestrians using the public rights of way throughout the woods.

8.9 [Chelmsford Local Plan Policy DM21 provides protection for community Danbury's important amenities include public open spaces, fragile wildlife sites, community facilities such as the Medical Centre, library, places of worship, schools, village halls and retail opportunities.](#)

8.10 [The presence and provision of social and community infrastructure is critical to sustaining and meeting the day-to-day needs of local residents, providing access to essential services and facilities, and helping to maintain a high quality of life. Facilities, which include schools,](#)

healthcare, churches, sports, and community centres, also have an important role to play in strengthening social networks, sense of community and identity

8.11 Danbury currently thrives socially because of its range of community facilities and services, which should be preserved. However, consultation feedback indicates concern in respect of the capacity of the Medical Centre and schools to cater for its existing residents, and which may be exacerbated through new housing development, although amelioration could be explored.

8.12 Amenities that are assets of community value are:

- A large majority of respondents supported the selection of essential facilities being nominated as Assets of Community Value in the Residents' Questionnaire, 2018 (Supporting Document 11).

- Existing designated Assets of Community Value.

- The Old School House (home to the Parish Council) and the library.

8.13 Other buildings/facilities that are of value to the community are:

- The Village Hall.

- Post Office.

- Griffin Meadow.

- Listed Village Public Houses.

(Table 3: Aspirations for Recreation and Leisure)

(Table 4: Aspirations for ~~Amenities~~ Assets of Community Value)

Appendix 4

14 August 2024



Mr A Freeman
c/o Jenny Robinson
Chelmsford City Council
[via email: jenny.robinson@chelmsford.gov.uk]

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Dear Mr Freeman

Independent Examination of the Danbury Neighbourhood Plan

Thank you for the opportunity to respond to the Danbury Parish and Chelmsford City Councils' letter of 25 July 2024 ('the Councils' Response') in respect of the Danbury Neighbourhood Plan (DNP), as per your invitation of 30 July.

I write on behalf of our clients, Medical Services Danbury, on whose behalf our previous (Regulation 14 and Regulation 16) representations were made.

For the avoidance of doubt, please note that the contents of this letter should be read in conjunction with our previous representations. We have sought to limit repetition of points previously made.

Allocation of around 100 homes

The Councils' Response appears to confirm the number of new homes the submitted DNP seeks to deliver is entirely derived from the current adopted Local Plan (examined in relation to the NPPF 2012), and no consideration has been given to subsequent changes to national policy, guidance, or the current housing needs position in the borough, discussed at paragraphs 3.3 to 3.20 of our Regulation 16 representations.

In particular, the Councils' Response suggests a failure to respond to either the PPG's instruction to use the latest up-to-date evidence of housing need, or its exhortation to exceed minimum housing requirements where possible (discussed in paragraph 3.17 of our Regulation 16 representations). For example, the Councils' Response makes no reference to the Chelmsford City Council Strategic Housing Needs Assessment Final Report (provided as Appendix C to our Regulation 16 representation).

The PPG¹ explains the reason Neighbourhood Plans should consider the latest evidence of housing need is to reduce the likelihood that they swiftly become out-of-date.

¹ Paragraph: 084 Reference ID: 41-084-20190509

In this instance, it is pertinent to note that the Government's proposed changes to national policy (currently being consulted upon), including to the Standard Method for calculating housing need, would result in a minimum housing requirement for the borough of 1,406 dwellings per annum. This represents a 54% increase to the minimum housing requirement calculated using the current Standard Method, and a 75% increase to the requirement on which the adopted Local Plan was based.

Whilst such revisions to national policy and guidance are currently being consulted upon, they nevertheless provide an example of changing circumstances that may arise, and from which the PPG advises Neighbourhood Plans seek to insulate themselves. Such potential changes are of course separate and in addition to *actual* changes that have occurred since the housing figure for Danbury was established through the Local Plan, such as the Council's declaration of a Housing Crisis in 2022 and the aforementioned City Council's 2023 assessment of housing need.

Separately, we note the Councils' Response correctly refers to the Local Plan Examining Inspector's conclusions in terms of articulating the number of new homes as 'around' in the Local Plan (at that time, and in the context of the 2012 NPPF).

However, even if one were to disregard our comments above on the need to consider the latest evidence of housing need, and to rely solely upon the adopted Local Plan, reference to 'around' 100 homes in the Local Plan could of course mean more or fewer than 100 homes be directed to Danbury. Whilst the Local Plan policy provides such flexibility, it is still a decision for the DNP as to whether to seek to plan for more or fewer. The decision as per the submitted DNP to plan for fewer in the context of the housing needs position (as discussed in our Regulation 16 representations) is patently unjustified and problematic in relation to Basic Condition A.

Heritage Considerations

The Councils' Response seeks to provide further clarification on the heritage concerns raised in respect of Bay Meadow (Site D12) as a potential residential allocation, and its resultant rejection in the submitted DNP.

The Council's Response confirms that heritage concerns raised in respect of site D12 are based on:

- A 2017 Technical Note prepared to support the Chelmsford Local Plan;
- A 2019 addendum to the Technical Note;
- A 2018 appeal decision (APP/W1525/W/17/3178243); and
- A 2020 comment provided to the DNP Steering Group by an Officer of the City Council.

Neither the 2017 Technical Note nor its 2019 addendum justify rejection of D12 for the reasons set out at paragraphs 3.27 to 3.31 of our Regulation 16 representations. We do not repeat matters raised again here, but in short the determinative factor appears to have been the 2018 appeal decision.

In terms of the 2018 appeal decision itself, the Councils' Response includes a partial quote from the decision letter, in which the Inspector cites the views of Historic England. We note however that the response from Historic England to application subject of this appeal (reference 16/01770/FUL) also included the following:

"The care home [proposed by application 16/01770/FUL, and the subject of the 2018 appeal] would be built of render, metal standing seam cladding, timber cladding, brickwork with a sarnafil roof. The varied palette of materials along with the contemporary design would relate to that of the Danbury Mission building and new Medical Centre. They would not however contribute to the character and appearance of the conservation

area. This along with the building's presence in views along Maldon Road would have a detrimental impact on the conservation area”.

The above provides an example of how Historic England's concerns with development proposed by application 16/01770/FUL evidently included those which expressly related to detailed design matters.

In respect of the comment provided to the DNP Steering Group by an Officer of the Council, we have already discussed the extent to which this can be used as justification for the rejection of D12 in our Regulation 16 representations. But in short, it again places undue reliance on the 2018 appeal decision. There is an additional reference to the impact of single-storey development within the comment provided, but no evidence to support this assertion accompanied this at the time or has been offered up since. Notably, the comment pre-dates the Built Heritage Assessment first submitted in response to consultation on the Regulation 14 iteration of the DNP.

We also infer from the Councils' Response that preparation of the DNP has, as we suggested in our Regulation 16 representations appeared to be the case, indeed lacked any detailed heritage assessment comparable to that with which we provided alongside our Regulation 14 representations (and appended again to our Regulation 16 representations).

The Councils' Response appears to simply confirm our view that the their heritage concerns (and basis for the DNP's rejection of D12) are not supported by robust evidence, and there has been a lack of any meaningful response to new evidence presented to it on the issue. The decision to reject site D12 is principally based on a six-year old appeal decision determined in an entirely different context; based on evidence before the Inspector at the time; and, critically, relating to a specific scheme and a specific form of development proposed.

As we have already set out in our Regulation 16 representations, the reliance on the appeal decision for the purposes of plan-making here is fundamentally flawed, and gives rise to significant concerns in relation to compliance with Basic Conditions A and F.

Steps in Response to Site D12 Representations

The Councils' Response suggests there was, at best, a merely superficial consideration of the Built Heritage Assessment (BHA) submitted alongside our Regulation 14 representations. Certainly, no evidence has been presented to suggest otherwise. The Councils' Response states that the BHA was reviewed by the DNP Steering Group and City Council, but does not explain how, with the exception of reference to an 'informal discussion' (no details of which we have seen).

We have seen nothing from the Councils on the issue of heritage approaching any level of equivalence with the BHA which seeks to rebut its findings or challenge its conclusions. Indeed, the evidence such as there is, which the Councils rely upon on this matter, all predates the BHA (which was prepared in 2023 in response to matters raised by the DNP at the Regulation 14 stage).

It is worth highlighting that the BHA submitted with our Regulation 14 representations provides a far more detailed assessment of the site D12's contribution to the significance of heritage assets, and potential impact of its development on heritage assets, than any evidence cited by the Councils (included within the Councils' Response) purporting to justify site D12's rejection.

The BHA was undertaken having regard to national policy and guidance, including use of Historic England's *Historic Environment Good Practice Advice in Planning, Note 3: The Setting of Heritage Assets* (HEGPA30).

It expressly considers D12's contribution to Danbury Conservation Area. As such it directly addressed heritage matters that were the basis for the Councils' concerns. We are at a loss as to how – as the Councils' Response suggests – the relevance of the BHA could feasibly be dismissed on the basis it “*did not address these specific and significant [heritage] concerns.*”

Our Regulation 14 representations also set out concerns regarding the draft Strategic Environmental Assessment (SEA) Environmental Report prepared for this iteration of the DNP. This included matters of direct relevance to the appraisal of site D12, and in respect of heritage matters in particular. At paragraph 5.9 of our Regulation 14 representations we explained how we considered it would be necessary to reconsider and appraise site D12 through SEA in the context of the latest evidence on heritage (in particular the Built Heritage Assessment), submitted at this stage and now available to it.

In the subsequent SEA Environmental Report of the Submission Draft (Regulation 15) DNP, as noted in our Regulation 16 representations (paragraph 5.19), it was entirely unclear how information we provided at the Regulation 14 stage had been considered as part of the SEA. Indeed, it was unclear whether the authors of this Environmental Report had even been made aware of issues raised in our Regulation 14 representations. There was, for example, no reference within this Environmental Report to any representations having been received on behalf of Medical Services Danbury at the previous stage; and no reference to any additional evidence having been provided in respect of site D12, let alone any explanation as to how this had been considered.

Despite the Councils' having been afforded opportunity to provide clarification on this matter, the Councils' Response makes no reference to how (or if) the BHA or the contents of our representations were considered through the SEA of the DNP. All of the evidence cited in the Councils' Response predates the Regulation 14 DNP and its SEA Environmental Report, i.e. this evidence could not have considered the findings of the BHA.

It remains far from clear how the SEA process considered evidence provided at the Regulation 14 stage that was clearly key to the appraisal of site D12. As per our Regulation 16 representations (Section 5), this gives rise to significant concerns in respect of compliance with the SEA Regulations².

Summary

Rather than allay the concerns set out in our Regulation 16 representations, we consider the Councils' Response merely confirms the validity of the issues we raised.

In our Regulation 16 representations, we drew parallels between the preparation of the DNP and the issues that resulted in the High Court quashing the Henfield Neighbourhood Plan (*Stonegate*, paragraphs 3.73 – 3.76 and 5.14 – 5.16 of our Regulation 16 representations).

The Councils' Response confirms that this is a fair comparison to make. Preparation of the Henfield Neighbourhood Plan failed to properly respond to new highways evidence that became available during its preparation (with this failure resulting in a potential option for development being discounted based “*upon an inadequate, if that, evidence base*”³). Similarly, we cannot see how an ‘informal discussion’ of the BHA – evidence provided to the DNP which was directly relevant to the rejection of a site for which the sole concern related to heritage matters – could constitute adequate evidence to support the DNP's conclusions regarding this site.

² Environmental Assessment of Plans and Programmes Regulations 2004 (Statutory Instrument 2004 No.1633)

³ *Stonegate Homes Ltd v Horsham DC* [2016] EWHC 2512 [74]

The rejection of a development option based on inadequate evidence resulted in a breach of the SEA Regulations in the case of the Henfield Neighbourhood Plan – the assessment of reasonable alternatives was flawed as it failed to consider new evidence that became available. Again, this appears analogous with the DNP. Despite having highlighted in our Regulation 14 and Regulation 16 representations the need for the DNP SEA to account for the new heritage evidence which we made available, and which was (and is) of direct relevance to the appraisal of site D12, we have seen no evidence that this has been considered through the SEA, and none has been offered up in the Councils' Response.

Separately, it is important to note that purported heritage concerns in respect of site D12 were the sole reason for the rejection of this potential residential allocation. It is a highly sustainable, centrally-located site available and achievable to provide housing (including, potentially specialist housing). Concerns vis-à-vis the rejection of the site and the DNP's compliance with the Basic Conditions are not limited to those pertaining to the lack of justification for this decision, or to compliance with SEA Regulations. Site D12's unjustified rejection should also been seen in the context of a DNP that fails to provide for a number of homes that reflects current evidence of housing need. In addition to helping ensure the DNP is justified and that it supports sustainable development, the allocation of site D12 would clearly help address this matter.

Yours sincerely,

Sam Hollingworth MRTPI
Associate Director, Planning