

WELLAND NEIGHBOURHOOD PLAN CONSULTATION

DB LAND & PLANNING REPRESENTATIONS 21/08/2023 & 04/09/2023

RESPONSE BY FOSSE PLANNING

This response is made on behalf of Brandon Planning & Development & Caddick Residential Limited and concerns two representations submitted by DB Land & Planning Ltd (DB Land) to the Regulation 16 consultation of the Welland Neighbourhood Plan (WNP.)

Brandon Planning & Development Ltd and Caddick Residential Ltd are the promoters of land on Gloucester Road, Welland which is subject to a pending application validated in April 2022 for 56 dwellings (Reference M/22/00608/OUT.) The site, which is outside of the AONB, is in the same ownership as the land that is the subject of the representations by DB Land.

The representations made by DB Land to the Regulation 16 consultation, were both submitted after the consultation period had ended. This notwithstanding, the District Council accepted both representations by reference to paragraphs 2.8.5. and 2.8.6 of the “*Neighbourhood Planning Independent Examiner Referral Service Guidance to service users and examiners*” produced by the RICS. I am not aware that this publication has any legal status concerning the examination of Neighbourhood Plans, but setting this point aside, the guidance relied upon by the District Council to accept late representations states that*Late representations should not be accepted unless there are exceptional circumstances for doing so ... and...where anyone wishes to introduce new evidence, they should fully justify the reason for doing so.*

No information has been provided to demonstrate exceptional circumstances exist to warrant the late representation being accepted or that full justification has been provided for doing so. As such it is not possible to comment upon whether the District Council has acted reasonably in accepting the late representations until information has been provided to accord to the requirements of paragraphs 2.8.5 and 2.8.6..

The only information that has been made public, are the representations made by DB Land.

The first was an email sent to the District Council on 23rd August and copied to the Clerk to the Parish Council (Little Malvern & Welland.) This representation concerned a letter sent to the Clerk on 21st August in which the Director of DB Land confirmed that the owners of the land at Cornfield Close, Welland (the proposed housing allocation) had decided to withdraw the land from the Neighbourhood Plan as it was not deliverable. The letter continued to say that, notwithstanding the withdrawal of the land from the Neighbourhood Plan, DB Land wanted to immediately start work with the Parish Council to submit the site for planning as a rural exception site.

It is not clear if the Parish Council received the letter on 21st August which is the date the Regulation 16 Consultation ended. It is also not clear why DB Land chose not to bring the withdrawal of the site to the District Council's attention prior to the termination of the Consultation period. Further clarification on both of these points should have been sought by the District Council to assess whether exceptional circumstances existed to allow the late representation.

The second representation is an email from DB Land to the District Council sent at 14.18 on 4th September, some 2 weeks after the letter was sent withdrawing the site from the NP. The email states that the landowners now wanted the site to be put back into the Plan if that was possible. No other information has been made public other than the email, so it is impossible to conclude how this email can accord to the requirements set out in the aforementioned paragraphs 2.8.5 and 2.8.6. which mentions the submission of new evidence to justify the reason for the late submission. If evidence has been provided to the District Council to justify the late representation and to explain why the position set out on 21st August is no longer applicable, then this evidence needs to be made public. If there is no such evidence, then there can be no justification to accept the late representation and the decision to do so could be challengeable.

In our representation on the Regulation 16 consultation, the point was made that the Policy H4 is not in accordance with paragraph 14b of the NPPF and the objective to bring the site forward for 100% affordable housing does not necessitate including a contrived housing allocation in the NP because the site could be brought forward as an exception site in accordance with existing Development Plan policy. Whilst no explanation has been provided in the NP why it was considered that the site should be brought forward as a housing allocation rather than as an exception site under existing Development Plan policy, the letter from DB Land dated 21st August states very clearly that Policy

H4 is not deliverable. Nothing in the subsequent representation of 4th September alters this statement as no evidence has been provided to explain the reversal of the intention to withdraw the site from the NP or to demonstrate that Policy H4 is viable.

None of this is surprising given that neither of the two planning permissions previously granted in 2015 and 2020 provided 100% affordable housing. Both applications were submitted by D B Land and were opposed by the Parish Council. The 2014 application which was granted at appeal, was submitted as an Exception Site for 12 market houses and 12 social rent. In 2015 a further application was made by D B Land to change the 12 social rented properties to 8 social rent and 4 shared ownership with the justification being provided by a viability report. The 2020 application was also submitted as an Exception Site with the same 50-50 split of affordable and market houses supported by a viability report to demonstrate that market housing was necessary to deliver the affordable housing which this time included no social rent.

No evidence has been provided in the NP to demonstrate that Policy H4 is deliverable. Based upon the previous permissions the delivery of 100% affordable housing in this location has not been achieved with only 50% of the dwellings being affordable. The promoter's letter of 21st August makes it very clear that nothing has changed and that Policy H4 is not deliverable. The letter specifically states that the site is being withdrawn from the NP to then immediately be brought forward as an Exception Site to ensure that the affordable housing can be delivered because "were it to be placed in the NP this would then preclude the site being delivered in this way and therefore the affordable housing would not be developed." This is a very compelling and damning statement by the promoter of the site on behalf of the landowners, that Policy H4 is not deliverable and that the only way to deliver 14 affordable houses is through cross-subsidy with market housing. This would necessitate a complete change to Policy H4 and require a full reassessment of the site's acceptability.

The letters from DB Land (which have been accepted by the District Council,) provide information that undermines Policy H4. As stated in our Regulation 16 representation, Policy H4 is not necessary as the site should be brought forward as an Exception Site, where its suitability and acceptability would need to be tested. This position is accepted by DB Land as the promoter of the site. Policy H4 has not been justified and is not deliverable. It follows that Policy H5 cannot be deemed to represent sustainable development and therefore it would fail to accord to one of the basic conditions required to deem the NP acceptable.