

Plumpton Parish Council

**Plumpton Neighbourhood
Development Plan Pre Submission
Document - Regulation 14
Consultation**

Representations submitted on behalf of:

Cala Homes

June 2016



1.0 INTRODUCTION AND SCOPE OF REPRESENTATIONS

A Introduction

- 1.1 These representations on the Plumpton Pre Submission Neighbourhood Plan have been prepared on behalf of Cala Homes. The company has a controlling interest in 1.5ha of land to the rear of Oakfield which has been identified as a deliverable and developable site in the Lewes District Strategic Housing Land Availability Assessment (SHLAA). It has been promoted as a potential housing allocation for 30 dwellings in the Plumpton Neighbourhood Plan but following a request from the Parish, Cala agreed to limit the development of the site to 20 dwellings. In the event the site is accepted as a housing allocation in the Submission Neighbourhood Plan the capacity can be capped at 20 dwellings.

B Scope of Representations

- 1.2 In summary Cala object to the failure of the Neighbourhood Plan to allocate land to the rear of Oakfield as a housing site for 20 dwellings. The findings of the Site Assessment Report and the Sustainability Appraisal prepared as part of the evidence base for the Neighbourhood Plan are flawed and the inconsistencies in the way sites have been appraised have led to the Oakfield site being overlooked as a proposed housing site.
- 1.3 In our view, the errors in the scoring system used to allocate sites for development in the draft Neighbourhood Plan mean the site assessment should be recast in its entirety. There is no weighting in the assessment criteria and without further review and changes to its findings, it will fail the 'basic conditions' for Neighbourhood Plan preparation as set out in Schedule 4B of the 1990 Town and Country Planning Act.
- 1.4 The draft Plan fails the basic conditions because it has not selected the most appropriate sites that would contribute to the achievement of sustainable development. It is therefore in conflict with national policy in the NPPF. The failure of the Strategic Environmental Appraisal in scoring the merits of the site alternatives correctly also means the Plan is unable to comply with the advice in selecting site options in the Strategic Assessment Directive and is therefore in conflict with the basic condition that the Plan does not breach and is otherwise compatible with EU obligations.
- 1.5 The risks of proceeding with the Plumpton Neighbourhood Plan without further reconsideration of the site alternatives and the scoring system are therefore high and as a recent case concerning the Haddenham Neighbourhood Plan in Aylesbury shows, flaws in the site selection process could lead to the Plumpton Neighbourhood Plan being the subject of a future judicial review.

- 1.6 For the reasons set out in the remainder of these comments Cala therefore invites Plumpton Parish to reconsider the merits of land the rear of Oakfield and include the site as a housing allocation for 20 dwellings in its next Submission Neighbourhood Plan.

2.0 POLICY CONSIDERATIONS FOR THE DRAFT NEIGHBOURHOOD PLAN

A The Basic Conditions

2.1 The Localism Act 2011 inserts provisions into the Town and Country Planning Act 1990 (“the Act”) in relation to neighbourhood development orders and into the Planning and Compulsory Purchase Act 2004 in relation to neighbourhood development plans. Paragraph 8(2) of Schedule 4B of the 1990 Act sets out the basic conditions a Neighbourhood Plan must meet and which an examiner must consider before it can go to referendum. The statutory test is:

- Having regard to national policies and advice, whether it is appropriate for the Neighbourhood Plan to be made
- Having special regard to the desirability of preserving any listed building or its setting or the character or appearance of any Conservation Area
- Contribute to the achievement of sustainable development
- Be in general conformity with the strategic policies of the development plan for the area
- Be compatible with the European Union (EU) and European convention on human rights (ECHR) obligations

National Planning Policy Framework

2.2 The National Planning Policy Framework (NPPF) (paragraph 14) defines sustainable development. For plan making it states that this means meeting the objectively assessed needs of an area with sufficient flexibility to adapt to rapid change unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

2.3 Paragraph 110 -111 advises that in preparing Plans to meet development needs the aim should be to allocate land with the least environmental or amenity value and policies should encourage the effective use of land by reusing previously developed land.

2.4 Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan and should not promote less development than set out in the Local Plan or undermine its strategic priorities.

Planning Practice Guidance

2.5 The on line Planning Practice Guidance (PPG) provides further guidance on Neighbourhood Plan making. It confirms that a Plan can allocate sites for development and an appraisal of options and

an assessment of individual sites against clearly identified criteria should be carried out including consideration of how sites can contribute towards sustainable development.

- 2.6 The PPG therefore advises that the preparation of a Sustainability Appraisal may be useful in demonstrating how a Plan can achieve sustainable development. Where a Plan is expected to have significant environmental effects a Strategic Environmental Assessment (SEA) may also be required. Paragraph 46 (id:11-046-20150209) states that this may arise where a Plan allocates sites for development or the Neighbourhood Plan area contains sensitive natural or heritage assets that might be affected by the proposals in the Plan.
- 2.7 The SEA process is explained in the PPG (paragraph 38 id: 11-038-20150209) and it requires proposals in a Neighbourhood Plan to be considered against reasonable alternatives to assess the likely significant effects of the available options. The PPG says it 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 including those selected as the preferred approach in the Neighbourhood Plan.

The Adopted Lewes District Local Plan

- 2.8 The Plumpton Neighbourhood Plan is required to be in general conformity with the strategic policies of the Local Plan and should not promote less development than set out in the Local Plan or undermine its strategic priorities.
- 2.9 In this regard the Lewes Local Plan was recently adopted in May 2016. The Plan provides for a minimum of 6,900 net additional dwellings District wide in the period 2010-2030 with some sites being allocated in the Council's Site Allocations Document and in Neighbourhood Plans.
- 2.10 Policy 2 deals with the distribution of housing and a minimum of 50 dwellings are identified as planned housing growth at Plumpton Green and a further 200 dwellings in as yet undetermined locations. Policy 2 and its lower case policy text in paragraph 6.37 states that Neighbourhood Plans could be used to identify sites to meet the extra 200 dwellings in the as yet unnamed locations and if Plumpton is selected then it can be expected to find significantly more than the minimum 50 dwellings.

Summary

- 2.11 For the Plumpton Neighbourhood Plan to be considered properly prepared and proceed to referendum, the following considerations will therefore apply:
- **That all the basic conditions for Neighbourhood Plans have been satisfied;**

- **This includes proper consideration of the selected sites against reasonable alternatives to assess whether it can deliver sustainable development in accordance with national policy;**
- **And the Plan is in general conformity with the strategic policies of the Lewes Local Plan**

3.0 THE PLUMPTON SITE ASSESSMENT AND SUSTAINABILITY APPRAISAL

- 3.1 In assessing the site options for development in the Plumpton Neighbourhood Plan the Parish has produced both a Site Assessment Report and for the same reasons, a Sustainability Appraisal incorporating a Strategic Environmental Assessment. On the face of it this is a commendable task and reflects national policy guidance for the selection of development sites in a Neighbourhood Plan.
- 3.2 However, we have reviewed both background documents and the scoring system used to rank and justify the selection of the preferred sites in the Neighbourhood Plan in both is flawed. This has led to the selection of sites that do not best promote sustainable development and must therefore conflict with national policy and guidance for site selection in the EU obligations - namely the Strategic Environmental Assessment Directive (Directive 2001/42/EC) transposed into domestic law by the SEA Regulations.
- 3.3 As such the Plan as drafted fails to meet the basic conditions for Neighbourhood Plan preparation.

The Site Assessment Report

- 3.4 The Site Assessment Report provides an assessment of all sites considered by the Parish Council's Neighbourhood Plan Steering Group up to the publication of the Pre Submission Plan. It has informed the inclusion of development sites in the actual Neighbourhood Plan and is therefore a highly relevant part of the evidence base for the Plan.
- 3.5 The sites included those identified in the Lewes District Council's own SHLAA and others in a 'Call for Sites' exercise in September 2014. These were later presented to public meetings for feedback and comment in January and March 2015. Another site at the racecourse was included in the Assessment Report even though it had not been consulted on by the parish community. It was included principally because it might have represented a form of 'enabling development' to secure the future of the racecourse.
- 3.6 In all 12 sites were listed and scored on their suitability, sustainability, achievability, availability and acceptability for development. As a result of the scoring 5 sites were identified for development in the Neighbourhood Plan with a combined capacity of 61 dwellings. A sixth reserve site was also identified for a further 16 dwellings.
- 3.7 The 5 preferred sites and reserve site in order of ranked preference (identified in brackets) were:
- Land at Plumpton Racecourse (1)
 - Land south of the Railway (2)

- Land at Wells Close (3)
- Land north of Old Police Station (4)
- Land south of Inholmes Farm (5)
- Reserve Site - Land South of Riddens Lane (equal 8)

- 3.8 Our clients' land **Site 8 – Land rear of Oakfield** was included in the Map of potential development sites as a potential allocation for 30 dwellings and after assessment was ranked in the scoring matrix as 11th preference. We would dispute this ranking as inaccurate and the findings in the Site 8 assessment table are also misleading. For instance the table refers to the site having been identified in the Lewes District SHLAA but no mention is made that the site was considered by the District SHLAA to be suitable, available, achievable and deliverable and compares with land south of the railway which was not deliverable, developable or suitable for development in principle.
- 3.9 The Site Assessment wrongly considers the site to have ecological and geological interest. It says it will cause highway safety issues but like all the sites highway safety impacts will have to be properly mitigated as a condition of granting planning consent. There are no ancient trees or TPO trees on site and heritage impact on a nearby listed building can be mitigated. Criteria H is wholly incorrect in alleging the site is Greenfield as it is occupied by a garage and residential curtilage outside settlement boundaries is classified as previously developed land.
- 3.10 However it is not only land at Oakfield that has been scored incorrectly in the Site Assessment. For instance Site 6 Wells Close has been scored with a plus for being previously developed but it is not. Site 12 at the racecourse is located next to a driving school which trains lorry and coach drivers and local ambulance drivers. We are advised that the business would close if the development went ahead resulting in the loss of 7 jobs scoring a minus.
- 3.11 The Scoring Matrix is heavily flawed and simply cannot be relied on. It has led to the identification of sites that do not best secure sustainable development, do not comply with national policy, or properly reflect the spatial vision for Plumpton Parish underlying the Neighbourhood Plan housing distribution strategy in policy 1 and policy 2. The selected site at the racecourse has no relevance to the housing distribution strategy and was only included at the eleventh hour with no public consultation because it offered a form of enabling development to secure the future of the race course. However this is not set out anywhere in the Neighbourhood Plan itself as a planning objective and the allocation of the site lacks any policy justification.
- 3.12 All of the above has led to the preparation of a Neighbourhood Plan that will fail to meet the basic conditions for Plan preparation. We deal with the flaws in the site selection process more fully in Section 4 of these comments.

The Sustainability Appraisal and Strategic Environmental Assessment

- 3.13 The same 12 sites included in the Site Assessment Report are considered in the Sustainability Appraisal and like the Site Assessment Report the actual scores for **Site 8 – Land rear of Oakfield** are flawed. For instance, the site is centrally located to local village facilities but is scored down in criteria Soc/2 because the loss of the existing privately owned garage is considered to represent a community facility. The site is also scored negatively against the loss of a business in criteria Eco/1 – in our view it can't be considered a community facility and an employment site and should be one or the other.
- 3.14 It is scored neutrally on the ecological and landscape criterion ENV/1 and ENV/2. It is alleged to have ecological interest but this is incorrect as a full ecological survey has found no evidence of this. The natural landscape will be protected and in fact the area to the east of Station Road is, according to the District Council's Landscape Capacity Study able to 'offer the greatest opportunity for change without impacting on the landscape character'. The Appraisal alleges the site is Greenfield and is occupied by ancient trees hedges and has geological interest. Neither allegation is correct however. The site is not wholly green field as it includes the garage which is previously developed land. Following the findings of a recent High Court Challenge (Dartford Borough Council v SSCLG [2016] EWHC 635) residential curtilage located outside of a settlement boundary is also previously developed land. There are no ancient trees worthy of protection as TPO's and the site has no geological interest.
- 3.15 The site scores negatively on the flood and drainage criteria despite being located in flood zone 1 at least risk of flooding and a drainage strategy provided by Cala indicates that surface and foul water impacts from the development will be adequately mitigated with no adverse risks arising. This negative score is also inconsistent with the findings of the site assessment which scored the site positively on the flood risk criteria E1 and neutral on the drainage criteria E2.
- 3.16 The inconsistencies and errors in the Site Assessment and Sustainability Appraisal reports lead us to conclude that neither can be relied on. They reach different conclusions on the same performance criteria and in our view the whole scoring matrix needs to be recast in its entirety.

4.0 THE FAILURE OF THE PLUMPTON NEIGHBOURHOOD PLAN TO MEET THE BASIC CONDITIONS

- 4.1 The draft Plumpton Neighbourhood Plan fails the basic conditions because 1) in omitting land to the rear of Oakfield it has not selected the most appropriate sites that would contribute to the achievement of sustainable development and is in conflict with national policy in the NPPF. The failure of the Site Assessment Report and the Sustainability Appraisal in scoring the merits of the site alternatives correctly and consistently also means 2) the Plan is unable to comply with the advice in selecting site options in the Strategic Assessment Directive and is therefore in conflict with the basic condition that the Plan does not breach and is otherwise compatible with EU obligations.
- 4.2 If the preferred sites in the Neighbourhood Plan (those in conflict with its overarching strategy to preserve the linear nature of the settlement and those sites on the west side of Station Road which have the greatest potential for landscape impact) are deleted, there is then also the potential that 3) there will not be sufficient capacity in the retained sites to ensure conformity with the strategic policies of the Local Plan and it will fail this basic condition too. As indicated earlier the adopted Local Plan proposes a minimum of 50 dwellings to Plumpton and possibly a share of a further 200 dwellings in as yet undetermined locations (Local Plan Policy 2, paragraph 6.37) in which case significantly more than 50 dwellings would be required at Plumpton.
- 4.3 For all of the above reasons we believe it would be wholly prudent to include land to the rear of Oakfield for at least 20 dwellings as a new baseline allocation and we propose its allocation in a new revised Neighbourhood Plan Policy 2.

The Site Assessment Scoring Matrix

- 4.4 Land to the rear of Oakfield (Site 8) has been incorrectly scored in the Site Assessment Report and should be allocated as a preferred site for housing ahead of other allocated sites in the Scoring Matrix. The scores are listed as negative (-) positive (+) and neutral (0).
- 4.5 The criteria in the scoring matrix which are in dispute are as follows:
- B2 – traffic near the site entrance will naturally slow if the site is allocated for housing development as the highway safety requirements for development will require it. It should be a neutral point as it will apply equally to all sites . Revised score 0.
 - C1 – the development will help bring about additional/improved local facilities such as an upgraded main sewer along part of Station Road. Like all the sites it will generate a Community Infrastructure Levy Charge on the development in accordance with the adopted CIL charging schedule. Revised score +
 - D1 - The site has no evidence of protected species on site. Revised score +

- D2 - Any ecological interest in the wider area is capable of mitigation and enhancement as explained in the ecology report submitted in support of the site at 'Call for Sites' stage. Revised score 0
- D3 – There is no alleged geological interest. Revised score +
- D4 – There are no TPO or ancient trees on the site and those mature trees that are present will be retained to greatly enhance the site. Revised score +
- D5 - The nearest listed building at Whitehouse Farm has received planning permission for a two storey extension right across the east side of the building and 3 houses have been constructed close to the old farmhouse. No harmful impact on the setting and heritage interest would arise from the allocation of land at Oakfield and we suggest a neutral revised score 0
- E2 – evidence of surface water discharge will be attenuated in any development with a suitably designed Sustainable Urban Drainage System (SUDS) and the incorporation of permeable paving and flow control devices to manage and regulate future flows. Revised score +
- F2 – The site is not in a community use and the employment use comprising a private garage could be lost at any time. Revised score +
- H – The site is not wholly green field as it includes the garage which is previously developed land. Following the findings of a recent High Court Challenge (Dartford Borough Council v SSCLG [2016] EWHC 635) residential curtilage located outside of a settlement boundary is also previously developed. Revised score 0.
- J – The site has been scored negatively for being located on the east side of the village. However the landscape capacity study of Lewes District favoured development on this side from a landscape impact point of view. Other sites have been allocated west and east of the village in any event. Revised score +
- K1 – The site causes least landscape visual impact as land to the east of Station Road is considered by the Lewes District Landscape Capacity Study (Sept 2011) to offer 'the greatest opportunity for change without impacting on landscape character'. Revised score +

4.6 Site 8 currently scores 10 plus and neutral and 10 minus scores which ranks it 11 overall. As a result of our analysis the revised score is 14 plus, 6 neutral and no minus scores. **This would rank site 8 – Land at Oakfield first** ahead of the racecourse which only achieved 19 plus and neutral and 1 minus score.

Sustainability

4.7 Site 8 enjoys absolute locational advantages over other sites at Plumpton being centrally located to all facilities. It is accepted that it is further away from the rail station than draft site allocations in policies 2.1, 2.5 and 2.6 but it is closer than sites 2.2, 2.3 and 2.4. Considering

all local facilities including the shop, public house, church, church hall and the village hall, Site 8 is a very sustainable location.

The Development Strategy of the Neighbourhood Plan

- 4.8 Policy 1 of the Neighbourhood Plan directs future development to ensure that the linear nature of the settlement is preserved and considers the agricultural character of the Parish.
- 4.9 Land at Oakfield is not agricultural land and being centrally located within the village with a direct frontage to Station Road will help retain its linear character. Both the Racecourse and land to the south of the Railway are divorced from the main part of the village breaching the railway line as a future defensible boundary. In our view the linear character of Plumpton can best be retained by consolidating development to the north of the railway on those sites enjoying direct access onto Station Road. As already mentioned the reason for allocating land at the Racecourse as form of enabling development to secure the future of the racecourse isn't even a Neighbourhood Plan policy objective.

Recommendation

- 4.10 The allocation of land to the rear of Oakfield would in our view maintain the linear nature of the village. It avoids encroaching into open countryside beyond the limits of the existing built form that would be discernible in public vantage points. It would cause the least landscape impact being located on the east side of Station Road. It offers absolute advantages over other sites at Plumpton in being centrally located to all facilities in terms of sustainability. In providing at least 20 dwellings it would contribute towards the housing requirement for Plumpton set at a minimum of 50 dwellings, maybe more if it contributes towards the additional 200 dwellings required by the Lewes Local Plan in as yet unidentified locations.
- 4.11 We have shown that the site has been scored incorrectly in the Site Assessment Report and Sustainability Appraisal.
- 4.12 As it stands therefore the exclusion of land at Oakfield as a development allocation in the Neighbourhood Plan means it now runs the risk of failing the basic conditions because 1) it has not selected the most appropriate sites that would contribute to the achievement of sustainable development and is in conflict with national policy in the NPPF. The failure of the Site Assessment Report and the Sustainability Appraisal in scoring the merits of the site incorrectly also means 2) the Plan is unable to comply with the basic condition that the Plan does not breach and is otherwise compatible with EU obligations.
- 4.13 **To overcome these failings, we therefore request that the land at Oakfield East of Station Road Plumpton comprising 1.5ha is included in the Submission Plumpton**

Neighbourhood Plan for an allocation of at least 20 dwellings and listed as such in a revised site allocation Policy 2.