

**Written Representations made on Behalf of Gordons Builders Merchants
Concerning Policies DM10 and DM12 of the Wycombe District Delivery
and Site Allocations DPD Submission Version 2012**

**Response No. DSA12/027 & PEC05
Examination Reference Nos: 027/3/DM10/1,4
and 027/4/DM12/1,2,4**

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1.00 INTRODUCTION

- 1.01 Tim North & Associates Ltd act on behalf of Gordons Builders Merchants, the freehold owners of land at No. 64 Holmer Green Road, Hazlemere, High Wycombe, Buckinghamshire. The company has a long affiliation with High Wycombe and now wish to find alternative premises to satisfy the needs of their business.
- 1.02 As indicated in the representations submitted on behalf of my clients concerning Policy DM4, what Gordons Builders Merchants are seeking is the release of land for residential purposes along their entire frontage with Holmer Green Road, extending to a depth equivalent to that of immediately adjoining properties fronting onto the same side of the highway. In this way, the majority of land in my client's ownership will be retained as an area of green space to be maintained by a management trust, with a financial contribution provided to ensure necessary improvements to the woodland and any nature conservation/biodiversity significance present in the same area. These details are more particularly shown on the Location Plan found at Appendix 1 attached to this company's written representations on Policy DM4.
- 1.03 Financial appraisals carried out on behalf of my clients have indicated that the cost of acquiring an alternative site in the Wycombe area; constructing the necessary buildings and compounds; borrowing any additional capital required in these challenging economic times and taking into account relocation expenses, with no allowance for increases in inflation, CIL contributions, the costs of any off-site highway and drainage works, along with a sinking fund to set up a management trust for the majority of the remaining area of green space; would not be met simply by redeveloping the existing lawful builders merchants business with approximately five new dwellinghouses.
- 1.04 These are not new factors, but are issues which have been raised with officers of Wycombe District Council continuously since August 2006, as well as at every stage in the preparation of the Delivery and Site Allocations DPD.
- 1.05 As indicated in the written representations relating to Policy DM4, the choice is whether to adopt a positive, proactive approach, in line with current central government policy, and thereby provide the necessary incentive which in viability terms will allow for the relocation of my client's business, at the same time enhancing the majority of the



remaining land as an area of green space with accessibility to the public. The alternative as portrayed through the provisions of the Delivery and Site Allocations DPD Submission Version 2012, and in particular those policies relating to green networks and infrastructure and the conservation and enhancement of sites, habitats and species of biodiversity and geodiversity importance, is one of essentially maintaining the status quo. Seen from a policy DM10/DM12 perspective, this stance will not provide the impetus for improvements to an area of unmanaged woodland which has taken on an unkempt appearance.

- 1.06 In considering these options, mention should be made that the area of green infrastructure owned by Gordons Builders Merchants and shown on Map 12 Widmer End/Great Kingshill, has never been assessed by the Local Planning Authority in terms of its potential contribution to the local community; is not accessible to members of the public; and no study has been undertaken of either the significance of the woodland or its nature conservation/biodiversity credentials. To a certain extent it represents an unused area where certain individuals have sought to dispose of their surplus household items.

2.00 MATTER 9 - GREEN INFRASTRUCTURE, NATURE & HISTORIC ENVIRONMENT

- 2.01 The purpose of these written representations is to provide additional information on those issues specifically identified by the Inspector to be considered at the Examination into the Wycombe Delivery and Site Allocations DPD June 2012, namely:-

1. Are the Council's policies for a Green Infrastructure Network appropriate and deliverable, particularly in relation to areas where objections have been raised? (DM10 and DMN11)
2. Are the maps showing the GI network comprehensive?
3. Could Policies DM10, 11 & 12 be simplified and improved, as has been suggested?
4. Will Policy DM14 provide adequately for the protection and enhancement of river and stream corridors?



5. Is the approach to open space provision and funding appropriate? (DM1`5)

2.02 These written representations are directed at providing answers to the first and third specific matters identified by the Inspector as set out in paragraph 2.01 above.

3.00 POLICY DM10 - ITS APPROPRIATENESS AND DELIVERABILITY

3.01 The contents of paragraph 1 of Policy DM10 require that all development “*should retain, protect and enhance the Green Infrastructure Network, paying special attention to the conservation and enhancement of biodiversity, recreation and non-motorised access*”. It is contended that the mere retention of sites forming part of a Green Infrastructure Network will not of itself comply with the stated intentions of paragraph 1 in ensuring that special attention is paid to the conservation and enhancement of biodiversity, recreation and non-motorised access.

3.02 The paragraphs set out in the NPPF on which the Council rely to ensure consistency with current central government policy do not refer to development retaining Green Infrastructure, but are based on the requirement to contribute to and enhance the natural and built environment; to minimise impacts on biodiversity and geodiversity, or to conserve and enhance biodiversity¹. What is sought is a positive proactive approach to the provision and management of such areas, thereby according with Policy CS17 of the adopted Wycombe Core Strategy DPD 2008 and Policy CC8 of the reinstated South East Plan.

3.03 There is no incentive in the Policies DM10 and DM12 for landowners and others to ensure measures improve or contribute to the improvement of the Green Infrastructure Network or Biodiversity Opportunity Areas. The only potential for improvements to be made to reinforcing or creating links with the Green Infrastructure Network is through development proposals involving new green spaces or green links. The question to be asked is how are the requirements of the second and third paragraphs of Policy DM10 to be , if the intention behind the same policy is based on preserving the status quo?

3.04 There is also the potential for conflict between the first paragraph of Policy DM10, which requires that “*all development should retain, protect and enhance the Green Infrastructure*

¹ Paragraphs 109, 117 and 118 of the NPPF refer



Network...” with the first paragraph of Policy DM11 which envisages situations where development which “*would result in the loss, fragmentation and reduction in size of green spaces shown on the Proposals Map*”, is allowed in exceptional circumstances. Indeed the circumstances surrounding a loss of green space in exceptional circumstances are afforded specific mention in paragraph 3 of Policy DM11.

- 3.05 To these considerations should be added that Policy DM11 is worded as applying only to green spaces shown on the Proposals Map. This would indicate that green spaces shown on the Proposal Map may in exceptional circumstances be lost, fragmented or reduced in size, subject to the criteria set out in paragraph 3 of Policy DM11 being complied with. Green spaces not shown on the Proposals Map, for some unexplained reason, would not benefit from the same exceptional circumstances.

4.00 COULD POLICIES DM10, 11 & 12 BE SIMPLIFIED?

- 4.01 The writer’s attention has been drawn to the fact that a Further Change (FC14) has been made by the Local Planning Authority to the wording of Policy DM12. It is my client’s view that a single policy is capable of dealing with the issues currently set out in Policies DM10, DM11 & DM12 of the Wycombe District Delivery and Site Allocations DPD Submission Version 2012, which are collectively concerned with issues of green infrastructure, along with the conservation and enhancement of biodiversity and geological conservation interests. The single policy now promoted to deal with these issues is not materially different from the Further Change (FC14) to Policy DM12, as set out in Core Document CD7.2 “*Index of Further Changes*”.
- 4.02 I have set out below a proposed new policy catering for the requirements of Policies DM10, DM11 and DM12 of the Wycombe District Delivery and Site Allocations DPD Submission Version 2012. It is contended that this proposed new policy reflects the positive, proactive approach enshrined in the NPPF where it is concerned with contributing to and enhancing the natural environment, and conserving and enhancing biodiversity. It has taken as its base the latest version of Policy DM12 with additional suggested wording highlighted in red type and wording to be omitted struck through.

“1. The highest level of protection will be given to sites and species of international and national importance, development affecting them will not normally be permitted.



2. Development proposals which would result in the loss, fragmentation or reduction in the size of green spaces shown on the proposals map and/or would significantly harm directly or indirectly other designated sites of nature conservation or geological interest or protected species including those shown on the proposals map will only be permitted where it has been demonstrated that:

~~a. there is no suitable alternative site for the proposed development, and~~

a. the development would contribute to and enhance the natural and local environment; and

b. the development within the green space is necessary; and

c. a substantial element of the green space is retained and its overall character and quality maintained; and

d. the impact arising from the development can be mitigated or compensated to achieve a net overall gain in biodiversity or geodiversity; and

e. it has been clearly demonstrated that the benefits of the development outweigh the harm to the biodiversity or geological conservation interests.

3. All development (where appropriate) will be required to contribute towards the:

i. improvement of the Green Infrastructure Network;

ii. delivery of Corridor Opportunity Areas (as identified on the proposals map); and

iii. improvement of Biodiversity Opportunity Areas (as identified in the Biodiversity Action Plan

4.03 Two issues arise from the wording inserted in red type in the proposed policy outlined above which it is contended require explanation.

4.04 Firstly, the only incidence where “harm” per se is considered in the NPPF is in terms of biodiversity and geodiversity considerations found at paragraph 118, wherein it is said “If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.”

4.05 Policy DM12 in its latest form, operates at a lower threshold than current national policy, in that only “harm” is required to be caused, resulting in a situation where development will not be permitted unless the particular development proposal meets the criteria set out in a. b. and c. of paragraph 2 of the same policy. In national policy terms, it is only in



cases where “*significant harm*” resulting from a development proposal is found, and it is not possible to avoid that “*significant harm*” through locating on an alternative site with less harmful impacts, or where that “*significant harm*” can be adequately mitigated or compensated for, that gives rise to a situation justifying refusal of planning permission. In this way, the latest version of Policy DM12 does not properly reflect the contents of the NPPF.

- 4.06 Secondly, the Council indicate in their Sustainability Appraisal where it concerns Policy DM12 that they are required by law and national planning policy to protect nature conservation sites and a “*no policy*” option is considered unrealistic and therefore has not been appraised. What the Local Planning Authority have not sought to do as part of a reasonable alternative is to appraise the option where development takes place on a site situated on land outside the second, fifth and sixth bullet points set out in paragraph 118 of the NPPF. It is feasible for development proposals, even on areas of green space, to be accompanied by an ecological assessment and/or a nature conservation management plan which will lead to a situation where biodiversity/geodiversity factors can be enhanced, where otherwise following a policy of simply retaining the same site as an area of green space leaves the same land vacant, unmanaged and open to incidents of fly tipping, at variance with the need to conserve and enhance biodiversity interests. The wording of Policy DM11 and in particular paragraph 3 envisages a situation where development may take place on an area of green space, and hence the requirement to assess such a situation as a reasonable alternative ought to have been considered as part of the Council’s Sustainability Appraisal.

5.00 CONCLUSIONS

- 5.01 The Inspector is requested to given consideration to a consolidating policy of the form set out in paragraph 4.02 above, which would cover all the salient issues currently found in Policies DM10, DM11 and DM12, in a way which is consistent with the approach taken in the NPPF, and which would avoid confusion to members of the public.