



## **Regulation 16 Draft Welland Neighbourhood Plan**

### **Representations on Behalf of Stonebond Limited**

#### ***Introduction***

Cerda Planning is instructed by Stonebond Limited to act on its behalf in submitting representations to the Regulation 16 Draft Welland Neighbourhood Plan.

Stonebond Limited is a key stakeholder in the neighbourhood planning process for Welland, with a legal interest in land at Lawn Farm, Drake Street. Stonebond Limited wish to bring the site forward to meet strategic housing requirements at Welland as expressed in Policy SWDPR62 of the South Worcestershire Development Plan Review, which identifies the land as a housing allocation.

As will be set out below, Stonebond Limited raise significant objections to the emerging Neighbourhood Plan and request the opportunity to constructively engage in the neighbourhood planning process for Welland so as to bring forward a plan which can meet the Basic Conditions and proceed to Referendum.

#### ***Background***

A neighbourhood plan is an important document against which all planning applications and appeals must be assessed. Once 'Made', a neighbourhood plan forms part of the Development Plan and benefits from the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 insofar as decisions must accord with the Development Plan unless material considerations indicate otherwise.

For a neighbourhood plan to proceed and be 'Made', it must meet certain Basic Conditions. These are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
- Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
- Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
- 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 in the development plan for the area of the authority (or any part of that area).

- The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations.
- Prescribed conditions are met in relation to plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations also require that a neighbourhood plan should not be likely to have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.

It is also a requirement for a neighbourhood plan to comply with certain legal requirements. In summary, they are whether it:

- Has been prepared by a qualifying body.
- Has been prepared for an area that has been properly designated.
- Meets the requirements that they must not include excluded development.
- Relates to one Neighbourhood Area.
- Relates to the development and use of land.

A neighbourhood plan must have regard to national policies and advice, contained in Ministerial Statements and guidance issued by the Secretary of State, and contribute to the achievement of sustainable development.

The National Planning Policy Framework is an important material consideration in both decision taking on planning applications and appeals, and for the purposes of plan making.

Paragraph 16 of the National Planning Policy Framework makes clear;

***“Plans should:***

- a) be prepared with the objective of contributing to the achievement of sustainable development;***
- b) be prepared positively, in a way that is aspirational but deliverable;***
- c) be shaped by early, proportionate, and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;***
- d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;***
- e) be accessible through the use of digital tools to assist public involvement and policy presentation; and***
- f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).”***

Paragraph 31 of the National Planning Policy Framework then makes clear:

***“The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned...”***

The Planning Practice Guidance assists further in relation to the requirements of relevant and up-to-date evidence. Paragraph reference 41-040-20160211 states:

***“While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.”***

### **Representations**

Significant objections are raised in relation to the following areas. Individually and cumulatively these amount to a serious failure of the neighbourhood plan.

#### **a) Conflict with Strategic Policies**

The adopted and emerging South Worcestershire Development Plan makes clear that Welland is a sustainable location. Welland ranks highly in the settlement hierarchy and it is clear that the emerging Development Plan requires Welland to make an important contribution to housing growth in the plan period to 2041.

This is best expressed through emerging Policy SWDPR62, which applies the strategic housing requirement – a minimum requirement – to specific sites allocated for housing. Lawn farm, Welland is identified as a housing allocation, site reference SWDP New 99. This is the land Stonebond Limited has a legal interest in and seeks to bring forward for development.

It is highly material to note that the South Worcestershire Development Plan Review is very well advanced. The plan has progressed through the iterative plan making stages, and having concluded Regulation 19 consultation it is shortly to be submitted for Examination.

In this context the three South Worcestershire Councils consider that the South Worcestershire Development Plan Review is sound, including in relation to the allocation at Lawn Farm, Welland. Whilst the Examination is yet to progress, the starting point for the Inspectors, once appointed, is that the plan is sound unless persuaded to the contrary.

The South Worcestershire Development Plan Review contains strategic policies, including allocation of the site at Lawn Farm, Welland for housing. The draft Neighbourhood Plan does not allocate land at Lawn Farm, Welland for housing. Instead the land is identified as part Local Green Space and part open countryside. It is self-evident that the draft Neighbourhood Plan is wholly inconsistent with strategic policies. In that sense the draft neighbourhood Plan demonstrably fails the Basic Conditions. It cannot therefore proceed to Referendum nor be ‘Made’. Furthermore, the draft Neighbourhood Plan seeks to allocate an entirely different site to that contained within the South Worcestershire Development Plan Review, which is a second, linked but separate inconsistency with strategic policies.

This is not a failing that can be remedied by evidence or justification through the neighbourhood plan process. It is a binary assessment – the strategic policy directs development to the Lawn Farm, Welland site and the neighbourhood plan promotes an entirely different site for housing.

The draft Neighbourhood Plan recognises this conflict, and seeks to make the case that there is no imbedded inconsistency with strategic policies. That is a wholly untenable argument to make. Put simply, the local community will no doubt allege that a planning application for residential development on the Lawn Farm, Welland site is in conflict with the Neighbourhood Plan. In and of itself this illustrates that there is inconsistency between the Development Plan and draft Neighbourhood Plan.

The case might be suggested that the South Worcestershire Development Plan Review is not as yet adopted, and therefore does not carry Development Plan status. If this is an argument being promoted, it is important to note that the three Councils consider the plan will progress to adoption and form part the Development Plan – otherwise the plan would not have progressed through Regulation 19 stage and be readied for submission. In any event, any such argument would have to acknowledge that as soon as the South Worcestershire Development Plan Review is adopted any conflict embedded in the Neighbourhood Plan would be to render the Neighbourhood Plan immediately out of date.

**b) Conflict with Evidence Base**

As a result of the neighbourhood plan allocating an entirely different site to that proposed for allocation in the South Worcestershire Development Plan Review, there is a conflict between the neighbourhood plan and the evidence base purporting to justify it.

This is evident at paragraph 1.22 of the draft Neighbourhood Plan. This makes clear that the South Worcestershire Development Plan Review is itself part of the evidence base to the draft Neighbourhood Plan. As has been set out above, there is a clear inconsistency between the Development Plan and draft Neighbourhood Plan in relation to a) the designations applied to land at Lawn Farm, Welland and b) the approach being taken to the allocation of housing land at Welland. It follows therefore that the draft Neighbourhood Plan is not in accordance with the evidence base seeking to support it, since the evidence base includes the South Worcestershire Development Plan Review.

**c) Evidence Base not Proportionate**

It is considered that the evidence base to the draft Neighbourhood Plan is not proportionate.

Insofar as the site selection process for the proposed housing allocation, the evidence base includes a Housing Site Assessment and Selection Update Report, but this simply assesses the site proposed for allocation. It does not address the assessment of alternatives. There are a number of alternative site options available at Welland, including land at Lawn Farm. However, the evidence base does not include any such alternative site assessments. As such, there is nothing to indicate that the site chosen for allocation performs better than the reasonable alternatives.

**d) Site Selection**

The site selection process is flawed, not properly evidenced, and risks the failure of the Neighbourhood Plan if not rectified.

The approach being taken in the draft Neighbourhood Plan is to allocate 13 affordable houses at Policy HLP. This site is located in the AONB.

There is a long standing policy of restraint in AONB. This is expressed in the NPPF at paragraph 176, which makes clear that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB which has the highest status of protection. Furthermore, NPPF paragraph 177 states;

***“When considering applications for development within... Areas of Outstanding Natural Beauty, permission should be refused for major development...”***

At 13 units, the proposed allocation seeks to utilise AONB land for major development.

Furthermore, South Worcestershire Development Plan Review Policy SWDPR28 makes clear that;

***“...major development [in AONB] will not be supported...”***

Given that planning policies should contribute to and enhance the natural environment, and AONB land has the highest status of protection, there can be no justification whatsoever for proposing an allocation of land within the AONB when alternative, non AONB sites are suitable, available and achievable. One such site is Lawn Farm, Welland which is demonstrably suitable, available and deliverable as evidenced by the South Worcestershire Councils in allocating this land in the South Worcestershire Development Plan Review.

In any event, the evidence base to the draft Neighbourhood Plan does not support the allocation proposed in Policy HLP.

The Housing Site Assessment and Selection Update Report is the key evidence base document for the purposes of establishing how appropriate the chosen site is for housing development.

Appendix R1 makes clear that there are land ownership issues in relation to the site access. There are no other viable options for achieving access to the site. As such, the site cannot be relied upon to deliver housing.

In addition, the Housing Site Assessment and Selection Update Report refers to the proposed allocation site in two parts, and part 1 (being the part proposed for allocation) is identified as being only **potentially** suitable, available and achievable.

The draft neighbourhood Plan makes clear that transport assessment work is yet to be undertaken, and given that the narrow tract of land available for the access, and the relationship of the access land to the main site is awkward, suggests that access may not be capable of meeting highways standards in relation to carriageway width, geometry and forward visibility. Given that no viable alternative access point is available to the proposed allocation, this is a significant issue.

There is a significant question mark over the scale of development being proposed on the draft allocation. At 13 units, this falls substantially short of the South Worcestershire Development Plan Review requirement of 25 houses required at Welland (as expressed at paragraph 2.6 of the draft Neighbourhood Plan).

The draft Neighbourhood Plan seeks to make the case that the 12 additional units required to achieve the overall 25 unit requirement is to be made up of windfall development. This is an entirely unjustified approach. Windfall development is by its very nature housing not otherwise identified through the plan making process. It is an entirely separate housing yield to allocations. In arriving at the requirement for 25 houses to be delivered at Welland, the South Worcestershire Development Plan Review has already accounted for windfall development, netted off the overall housing requirement for the plan period to 2041. This is evident at South Worcestershire Development Plan Review Policy SWDPR02 which includes Table 1, row C includes for windfall development and only then are allocations identified in row E. It can be seen therefore that the draft Neighbourhood Plan is double counting windfall development, and doing so in order to artificially reduce the quantum of development to be planned for.

As to the actual windfall rate for Welland, South Worcestershire Development Plan Review Policy SWDPR03 makes clear that windfall development is to come forward inside settlement boundaries. Historical windfall development has, to a large extent, previously occurred outside settlement boundaries at Welland. Historical windfall delivery is not a reliable indicator of future windfall development at Welland as a result.

#### ***e) Local Green Space Designation***

The Regulation 16 draft plan is the first time the Local Green Space designation has been proposed for the Lawn Farm, Welland site.

The NPPF makes clear at paragraph 101 that Local Green Spaces should only be designated when a plan is prepared, and be capable of enduring beyond the end of the plan period. The PPG makes clear at paragraph 17 that designation does not in itself confer any rights of public access over what exists at present; and as a result, any additional access would be a matter for separate negotiation with land owners, whose legal rights must be respected. Paragraph 20 sets out that Local Green Space designation does not impose new restrictions or obligations on landowners. Paragraph 19 is particularly relevant, stating;

***“A Local Green Space does not need to be in public ownership. However, the local planning authority (in the case of local plan making) or the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.”***

It is clear that the Lawn Farm, Welland site is not in public ownership, without public rights, and the landowner, Kler Group and Stonebond Limited (both of whom has a legal interest in the site, the former recorded on Land Registry documents) has confirmed that there is no intention to make the site available for public use. In accordance with the PPG, there is nothing to impose an obligation upon the owner, Kler Group or Stonebond Limited to make the land available for recreational use given there can be no new restrictions upon the owners. This is highly material to the consideration of the Local Green Space designation.

Furthermore, there is no plan prepared for the Local Green Space as required by the NPPF. It is noteworthy that the Welland Local Green Space Report is silent on the need for a plan to be prepared, and does not make any reference whatsoever to the PPG and its requirements.

There is, in addition, a procedural point to consider. Kler Group and Stonebond Limited has not been contacted regarding the proposed Local Green Space designation. The PPG is explicit that this is a requirement of any such designation. Kler Group and Cerda Planning are known to, and have previously communicated in general terms with, the Chair of the Parish Council regarding neighbourhood planning in Welland, and yet no contact has been made to discuss the Local Green Space designation. This is a significant procedural failure. As a result, the neighbourhood plan is in conflict with both the NPPF (paragraph 101) and the PPG at paragraph 19.

### **Concluding comments**

We welcome the opportunity to engage in the neighbourhood planning process for Welland.

Our submissions have been made in order to assist the process, to identify where we consider there are deficiencies (some of which are of a legal nature, others a failure to meet the Basic Conditions) so as to allow at this early stage a review of neighbourhood planning for Welland so as to ensure that at the point at which the emerging Neighbourhood Plan proceeds it is fit for purpose and capable of being positively examined.

We welcome the opportunity to continue to engage in the process and would welcome a meeting with the steering group responsible for the Neighbourhood Plan to discuss our concerns and options for remedy further.

**Cerda Planning**

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