

**LOXWOOD NEIGHBOURHOOD PLAN**

**COMMENTS ON THE DISTRICT COUNCIL'S SUBMISSIONS AND FURTHER MATTERS  
RAISED BY THE EXAMINER ON THE SECOND DRAFT DOCUMENT**

**SUBMITTED IN BEHALF OF: CROWNHALL ESTATES**

## 1 Introduction

1.1 These representations have been prepared by Planit Consulting and Richard Harwood QC on behalf of our client Crownhall Estates. They address the following documents:

- (a) The District Council's response to the Crownhall Estates representations and the Advice obtained by the District Council dated 27<sup>th</sup> January 2015
- (b) The Examiner's request to the District Council for an explanation of the need for a second examination and the Council's response 'Background information in the second Loxwood Examination'
- (c) The Examiner's request for comments on the change to Policy 1, dated 22<sup>nd</sup> January 2015

*(a) The District Council's response to the Crownhall Estates representations and the Advice obtained by the District Council dated 27<sup>th</sup> January 2015*

2.1 The Council's representations acknowledge that there is a shortfall in the housing supply in the North of Plan Area of 24 houses (para 2.10, 2.11). They also acknowledge that the Crownhall site will 'boost the identified housing supply' (para 3.1).

2.2 There is no challenge to the suitability and sustainability of the Crownhall site. The Council's legal advice identifies site assessment methodology as one of the main matters challenged and says 'Clearly, this criticism may need responding to (see in particular paragraphs 43-46 of the Joint Advice' (para 14). However neither the advice nor the Council's response to the representations addresses the methodology or attempts to defend it in any way (see Council's response, para 1.3). The District Council do not dispute that the methodology was flawed and that the South of Loxwood Farm site is marginally better than the Nursery Farm site. It is a sustainable location, on the High Street, and eminently preferable to the rural exception sites relied upon by the Council (response para 2.11). A failure to provide sufficient

housing at settlements is not sustainable as it encourages development to take place in the open countryside or at a distance from where it is required.

- 2.3 Consequently to address the identified shortfall it is appropriate to modify the Plan to include South of Loxwood Farm as well as Farm Close and Nursery Farm.
- 2.4 The housing supply position is more serious than the District Council's own figures suggest. There is no adopted housing requirement for the District or the North of Plan Area. The objectively assessed need is considerably higher and reliance upon the South of the Plan Area does not address the need at the other end of the district. Given the constraints the windfall figures in the North of Plan Area look optimistic and homebuilding is running at 4 dwellings per annum rather than the proposed 20 dpa. There can be no confidence that the Council's own figures will be met, let alone the objectively assessed need. Whilst housing delivery across the plan area as a whole is better, it is still less the 60% of the Council's proposed, low, requirement.
- 2.5 One of the Basic Conditions is whether the proposed plan is appropriate having regard to national policy.
- 2.6 As Crownhall's representations and the advice have always identified, the test is whether the basic conditions are satisfied, not whether the plan is sound. However both local and neighbourhood plans are subject to statutory duties to have regard to national policies, the difference being that the examiner must be satisfied that the neighbourhood plan is appropriate in light of those policies. That involves considering whether it accords with those policies. The statutory requirement of appropriateness requires a robust examination. The neighbourhood plan can only proceed if it would be appropriate to make the plan having regard to national policies. Debating soundness merely confuses the test (as paragraphs 83 to 85 of *BDW* illustrate). The local plan is subject to a duty of soundness, which lacks a legal definition, and it is only policy that local plans should be consistent with national policy – and consequently that policy does not have to be followed.
- 2.7 In the absence of an adopted district housing figure, the neighbourhood plan has to consider what housing provision it should make in the light of the national policy on meeting objectively assessed needs given constraints.

*(b) The Examiner's request to the District Council for an explanation of the need for a second examination and the Council's response 'Background information in the second Loxwood Examination'*

- 3.1 The Council's note omits to mention that the judicial review proceedings raised seven grounds, five of which concerned the examination itself. Whilst the Council submitted to judgment on the basis of Strategic Environmental Assessment errors it was agreed to deal with the other grounds by reopening the consultation and examination process. The claimed legal errors and the underlying planning merits should therefore be considered by the examination.
- 3.2 Grounds (ii), (iv), (v) and (vi) are set out in the Joint Advice, paragraph 11. The remaining deferred grounds concerned the District Council's failure to consult on the change to Policy 1 (ground (iii)) and various changes to the referendum version of the plan from that approved by the District Council's Cabinet (ground (vii) discussed below.

*(c) The Examiner's request for comments on the change to Policy 1, dated 22<sup>nd</sup> January 2015*

- 4.1 There were a number of changes which were slipped into the referendum text (and are retained in the current version) which were not approved by the District Council's Cabinet. These were raised in the judicial review, ground (vii):

(I) The addition to policy 2 of:

"Any land within the parish of Loxwood which is outside the Settlement Boundary of Loxwood village is deemed to be rural and development should comply with policy 12 of this neighbourhood plan."

(II) the change of the start of policy 12 to:

"Development within the rural area will be in accordance with the NPPF paragraph 55, the CDC Emerging Local Plan and the General Permitted Development Order. The re-use of farm and rural buildings outside the Settlement Boundary for agricultural/ business purposes or to provide dwellings for agricultural workers will be supported subject to the following criteria:"..

4.2 This in itself is an incorrect assessment of this policy which also allows barn conversions to unrestricted dwellings. The Crownhall Estates site accords with paragraph 55 as it will 'be located where it will enhance or maintain the vitality of rural communities'.