

Ref: GA/DJ/01821/L0004

18th March 2022

Sent by email to: planning.policy@stratford-dc.gov.uk

Planning Policy
Stratford-on-Avon District Council
Elizabeth House
Church Street
Stratford upon Avon
CV37 6HX

Dear Sir/Madam,

**Fenny Compton Neighbourhood Development Plan – Final Submission Consultation
Representations on behalf of Lagan Homes**

On behalf of our client, Lagan Homes, we are pleased to submit representations to the Fenny Compton Neighbourhood Development Plan – Final Submission Consultation (henceforth 'FCNP').

Our client has a site at Land off Station Road, Fenny Compton (see Figure 1) that was previously put forward as a planning application for residential development, but refused due to the principle of development not being acceptable under planning policy at the time. The site was otherwise considered to be suitable for development and is now identified as a reserve housing site in the emerging Site Allocations Plan. The site therefore has potential to come forwards for residential development in the future, but our client is also keenly aware of significant need for self-build plots in the District. As such, our client is now proposing to bring the site forward to meet the needs of people wanting to build their own home. We have had positive pre-application advice from the District Council in this regard and will be looking to submit a planning application in Spring 2022.

It is in this context that we have reviewed the FCNP and would like to raise several issues that we consider could prevent sustainable self-build sites from coming forwards in the village. In our comments below we focus on these issues and whether the FCNP meets the basic conditions set out at paragraph 8(2) of Schedule 4B to the Town and Country Planning Act. In particular: whether it is appropriate to make the FCNP having regard to national policy and advice; whether the FCNP contributes to the achievement of sustainable development; and whether the FCNP is in general conformity with the strategic policies contained in the development plan.

Allocation of Sites

Both the Executive Summary and paragraph 1.2.6 of the Introduction to the FCNP state that "*The exact number of houses allocated in the Neighbourhood Development Plan will depend on how many can be accommodated in a sustainable way.*". We consider that this statement should be deleted as the FCNP does not allocate any sites for housing. This is important for clarity with respect to how the plan would be assessed against National

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Planning Policy Framework (NPPF) paragraph 14. We consider that it would be inappropriate to make the FCNP without this change as it does not have due regard to national policy.



Figure 1. Land off Station Road, Fenny Compton

Environmental Context of the Parish

This section of the FCNP includes two maps titled 'Fenny Compton Parish Local Wildlife Sites' and 'Fenny Compton Parish Phase 1 habitats', but it does not say where the information on either plan comes from and in the case of the Phase 1 habitats map it does not include a key to show what each of the colours mean. This is confusing and fails to provide evidence to justify why the sites identified are important for wildlife.

Our key concern with these maps is that they identify our client's site as a potential Local Wildlife Site, but provide no justification for why this is the case. On further investigation, we have found the source of these maps in the Preliminary Ecological Report prepared as part of the evidence base for the FCNP. This document shows that the potential Local Wildlife Sites identified are based on surveys dating to either 1996 or 2012 (and that some sites, including our client's, may never have been surveyed as there is no corresponding target note to provide this information). On this basis, given that ecological surveys are ordinarily given a shelf life of 2 years, it is clear that these surveys are out of date.

This highlights a significant gap in the Neighbourhood Plan's evidence base for our client's site which was subject to detailed survey in 2016 as part of our client's previous planning application (Ref: 16/00990/OUT). This survey found that the majority of the grassland on site is species poor (as confirmed by the consultation response from the County Council's ecologist at **Enclosure 1**). The site would not therefore meet the criteria to be considered as a potential Local Wildlife Site and we object to it being identified as such in the in the FCNP.

We consider that the two maps listed above and the corresponding paragraph at 1.7.10 should be deleted from the Neighbourhood Plan as they are insufficiently evidence based and could prevent otherwise sustainable development from coming forwards. We support the plan's intention to protect the natural environment, but this can be suitably achieved by Policy NA4 without the need for these maps (see comments below).

Policy DE2: Sustainable Development

This policy sets out the FCNP's approach to development outside of the Built-Up Area Boundary (BUAB). It states that "*New dwellings within the countryside should be limited to those exceptions listed within Policy AS10 of Stratford District Council's core strategy*". Ordinarily we would support Neighbourhood Plan policies that defer to existing adopted policies, but in this case we are concerned that the policy does not recognise that the District Council now considers the list of exceptions at Policy AS.10 to be out-of-date.

As set out in the District Council's Information Sheet on Self-Build & Custom Housebuilding (Information Sheet)¹, there is no adopted local planning policy which supports the provision of self-build and custom build dwellings. This is because the Core Strategy was substantially complete when the obligation to deliver self and custom build housing in the Self-Build and Custom Housebuilding (Register) Regulations 2016 was introduced. The District Council intends to resolve this issue at emerging Policy SAP.6 of the Site Allocations Plan (SAP) which allows unallocated sites to come forward for self-build dwellings adjacent to the BUABs of Local Service Villages (i.e. including Fenny Compton).

In the above context we do not consider that Policy DE2 meets the basic conditions as: it does not conform with the NPPF's requirement at paragraph 62 for policies to plan for people wishing to commission or build their own homes; it would not achieve socially sustainable development as it fails to meet the needs of these people; and it would not conform with the emerging development plan. It is not therefore appropriate to make the FCNP as currently worded and we consider that the policy should be amended to refer to exceptions listed within Policy AS.10 and emerging Policy SAP.6.

Policy BU1: Minor Commercial Developments

This policy states that future development should not result in adverse impacts on designated biodiversity assets, including Local Wildlife Sites and potential Local Wildlife Sites highlighted in the map on page 20. As set out above, we consider that the map on page 20 should be deleted as it is insufficiently evidence based and would serve to constrain otherwise sustainable development from coming forwards. Given that the potential wildlife sites have in some cases not been surveyed and in all cases have not been surveyed for at least 10 years, we consider that it is inappropriate to require minor commercial developments to not have any adverse impact on these sites without knowing if the sites are of any value to wildlife. We therefore recommend that the policy is amended to require applications to be supported by suitable ecological surveys.

Policy NA1: Protection of Valued Landscapes

We are concerned that this policy essentially seeks to define the entire parish as a 'valued landscape' that should be protected and enhanced. It identifies key views for protection that encompass almost the entire parish and states that "*Development proposals should ensure that all landscapes valued by residents are maintained and safeguarded, particularly where they relate to heritage assets, rising land, village approaches and settlement boundaries.*" This is contrary to the NPPF at paragraph 174 which draws a clear distinction between valued landscapes (which should be protected and enhanced) and other countryside (the intrinsic character and beauty of which should be recognised).

There have been many appeal decisions and legal judgements relating to the interpretation of 'valued landscapes' in the NPPF, but key amongst them is *Stroud DC v SSCLG* [2015] EWHC 488 (Admin), in which Mr Justice Ouseley concludes that the Inspector did not make an error in concluding that for a site to be valued it

¹ Information Sheet, No: 003/2020, 24 April 2020, Self-Build & Custom Housebuilding, <https://www.stratford.gov.uk/doc/209222/name/003%202020%20Self%20Build%20and%20Custom%20Housebuilding.pdf> [Accessed 15/03/2022]

has to show some demonstrable physical attribute to take it beyond mere countryside rather than just popularity.

The FCNP is not supported by any evidence to demonstrate why the parish should be considered a 'valued landscape' aside from a survey of local residents. Such a survey can be useful in identifying value but is not by itself sufficient without technical assessment.

In conclusion, Policy NA1 fails to have regard to national policy as it does not draw a distinction between valued landscapes and ordinary countryside. It therefore fails to meet the basic conditions and should be amended in line with NPPF paragraph 174.

Policy NA4: Conserving the Natural Environment

This policy states that "*Existing ecological networks (identified in the Neighbourhood Plan Environmental Survey) should be retained and creation of new ecological habitats and networks will be supported and encouraged*". It is unclear whether the Neighbourhood Plan Environmental Survey referred to is the Preliminary Ecological Report prepared as part of the evidence base for the FCNP. If so our comments above stand (i.e. this document presents evidence from out of date surveys that cannot be relied upon), but if there is some other report that is not readily available on the FCNP or District Council website, then this clearly needs to be published and consulted on.

In the absence of an up to date evidence base on existing ecological networks, we consider that it is inappropriate for the FCNP to require the retention and protection of specific sites. To do so would constrain the ability for sustainable development to come forwards in the village and would not meet the basic conditions. We therefore recommend that the first paragraph of Policy NA4 is deleted. Importantly this change would have no impact on the protection of biodiversity in the parish as the third paragraph that requires development to not harm biodiversity would still apply.

We trust that this letter and the enclosed information will be given due consideration in the development and examination of the FCNP. If you have any queries or require further information at this stage, then please do not hesitate to contact me.

Yours sincerely



Geoff Armstrong (geoff.armstrong@arplanning.co.uk)

Director

Armstrong Rigg Planning

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Enc. Warwickshire County Council Ecology Response to Planning Application Ref: 16/00990/OUT

**Enclosure 1. Warwickshire County Council Ecology Response to Planning Application Ref:
16/00990/OUT**

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Our Ref: 16-00990ch
Your Ref: 16-00990/OUT

15th June 2016

Dear Jamie

ECOLOGICAL RESPONSE: Land off Station Road, Fenny Compton
Application number: 16/00990/OUT
Outline application to the construction of up to 25 dwellings (35% affordable) with all
matters reserved except access
Grid reference: 442057 252720

Ecological comments

The application site forms part of the larger Fenny Compton Meadows potential Local Wildlife Site. The majority of the grassland was found to be generally species poor, and although the botanical survey was undertaken by Focus Ecology just outside the optimal time of year, overall the grassland does not currently appear to have a high botanical diversity, with unsympathetic management likely to be a contributing factor. Part of the grassland in the north of the site has been found to contain a small number of species characteristic of lowland meadow habitat, with the indicative layout indicating development in this part of the site is to be avoided. The biodiversity impact assessment submitted with the application suggests that if such an area can be retained and brought into more positive management a net loss to biodiversity will be avoided.

The reptile surveys were squeezed into a small timeframe and fall short of the recommended minimum of seven surveys. Those reptile species found in Warwickshire are protected from killing and injury under the 1981 Wildlife and Countryside Act (as amended). However, given the comparatively small size of the application site and its setting, I am satisfied any animals that may be onsite can be adequately safeguarded by the implementation of the habitat manipulation works recommended by Focus Ecology.

*Working for
Warwickshire*

In the event of planning permission being granted the below conditions are recommended:

- Prior to the commencement of the development hereby approved, including any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be undertaken to ensure that construction works do not adversely affect retained biodiversity features, shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved CEMP.

Reason: To ensure appropriate measures are taken in relation to biodiversity.

- Prior to the commencement of the development hereby approved, including any works of site clearance, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

Reason: To enhance the nature conservation value of the site.

Alternatively, you may consider it more appropriate to secure the LEMP as part of a S106.

- Prior to the commencement of the development hereby approved, including any works of site clearance, biodiversity enhancement measures relevant to bats, hedgehog and nesting birds shall be submitted to and approved in writing by the local planning authority. Thereafter the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason: To enhance the nature conservation value of the site.

- The development hereby permitted shall be carried out to wholly accord with the mitigation measures for the safeguarding of reptiles and bats as set out in the Bat and Reptile Survey Reports by Focus Ecology dated March 2016.

Reason: To ensure protected species are not harmed by the development.

Please do get in contact should you require any further information.

Yours sincerely

Christopher Hill
Assistant Ecologist