

Bishops Tachbrook Neighbourhood Plan  
Gaydon Fields Farm  
Gaydon  
CV35 9HF

June 27th 2020

Dear Sir/Madam

**Bishop's Tachbrook Neighbourhood Development Plan: Regulation 16 Consultation Draft – March 2020**

Pegasus Group on behalf of Barwood Strategic Land II LLP (Barwood) is pleased to make formal representations to the **Bishop's Tachbrook Neighbourhood Development Plan: Regulation 16 Consultation Draft (March 2020)**. This document will provide planning policies to guide development within the Parish, ultimately forming part of the Warwick District's Development Plan. The document has been opened to public consultation, with the deadline for response being **10 August 2020**.

Barwood is the promoter of 'the Asps', a 130 acre land parcel located between Banbury Road and Europa Way. The site falls within the North Western extremity of the Neighbourhood Plan Area and benefits from an extant outline planning permission (**W/14/0300**) granted by the Secretary of State at appeal for up to 900 homes. Following this, Reserved Matters submissions were duly made and approved for both strategic landscaping (**W/18/2336**) and a first phase of residential development totaling some 65 dwellings (**W/19/0229**). A site location plan is attached to this submission identifying the extent of Barwood's land interests.

Barwood continue to welcome the opportunity to be engaged of the plan making process, and their comments are largely restricted to matters which either impact or have the potential to impact, directly on The Asps. In particular they wish to make their position clear that the Asps, being the subject of planning permission and associated S106 agreement(s), is already committed to the provision of planning gain necessary to mitigate the impacts of development. Therefore the emerging Neighbourhood Plan should not have any expectation of further contributions or mitigation being sought through the Reserved Matters process (which in any event would not be lawful). Specific comments assessed against the *basic conditions* are set out below.

**Paragraph 4.6**

It should be clarified at this paragraph that the Asps already benefits from an extant planning permission in addition to the Local Plan allocation H46B. The permission is already the subject of legal agreements under S106 of the Town & Country Planning Act, to ensure the delivery of a range of community and public planning gain, including the provision of

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the proposed Park and Ride facility and arrangements relating to affordable housing, biodiversity off-setting, education, healthcare, police, public rights of way and sustainable travel/welcome packs. The impact arising from the Asps, and the mitigation necessary to address it, has already been determined through the grant of planning permission.

As currently drafted the Plan may give rise to a perception or expectation that these matters could be re-visited through Neighbourhood Plan policy. To avoid this, it is suggested that the Plan text here be amended to clarify that permission was granted for development of the Asps in January 2016, and that appropriate mitigation is already secured through the S106 agreements entered into at that time.

#### **Policy BT1 – Conserving and Enhancing Bishop’s Tachbrook’s Landscape Character**

- e) **Seeking to retain the quality and integrity of the views identified in Figure 7. Where necessary applicants should carry out a Landscape Visual Impact Assessment (LVIA) of the key attributes of these views. Where impacts are identified measures should be incorporated to minimise these impacts;**

Figure 7 is imprecise as to the nature of the views being protected, how they are assessed and what elements of the views are of value or need protecting. The elongated view towards the Asps reaches Europa Way, but it is unclear whether views beyond this are proposed to be considered.

It should be noted that the landscape and visual impact of the Asps has already been considered as part of the Environmental Impact Assessment of the outline permission. Therefore, any future Reserved Matters application would not be subject to carrying out a LVIA.

Additionally, the Asps is subject to an approved Design Code under Condition 9 of the planning permission. Figure 7 should be amended to reflect the existence of the Code and remove any reference to protected views across the Asps site; which is already subject of planning permission, and where a detailed development structure and framework exists as consented through the Condition 9 Design Code.

#### **Policy BT4 – Traffic Management and Transport Improvements**

- e) **Provision of suitable pedestrian/cycle crossing (Toucan) at the A452 providing connections to The Asps and beyond;**

There is no objection, per se, to the policy as drafted but as with other aspects of the Plan, it must be understood that the scale of the off-site improvements associated with the Asps has already been determined, and it is not possible through the Neighbourhood Plan policy to alter the extent of that provision at this time.

#### **Policy BT5 – Improving Accessibility for All**

- **A foot bridge over Europa Way to link The Asps to the Country Park.**

The proposed provision of a footbridge into The Asps is a new aspiration which does not form part of the consented scheme. Currently, access into the Tach Brook Country Park from the Asps is proposed through the provision of an at grade, pedestrian crossing phase incorporated into the Europa Way site access traffic light control junction. The developer contributions to make the development acceptable in planning terms has been established and it was not deemed necessary by the Secretary of State to include a footbridge within

the parameters of the extant permission. Therefore, this cannot be required through a provision of a subsequently progressed Neighbourhood Plan.

It is unclear where the footbridge could cross Europa Way to the Country Park. Any such bridge could not cross from the Asps as it would go directly into the existing woodland area opposite, where it would then be confined by Tach Brook as it meanders south to east. From discussions with the District Council, it is understood that there is potential to delivery of a footbridge across Europa Way to the north of Tach Brook to the open area of the Country Park. This would 'land' within an area controlled by L&Q Estates. However, that site (to the north of Tach Brook and to the west of Europa Way), is both outside of the Asps boundary and more critically outside the demise of the Neighbourhood Plan's boundary; and therefore such a policy requirement could not lawfully be made through this Neighbourhood Plan.

There is no provision for a footbridge crossing of Europa way within the Local Plan policy for the Country Park, nor the extant planning permission at the Asps. This provision would not therefore be in conformity with the Local Plan and does not meet Basic Condition e), and extends its power beyond that which is justified by a Neighbourhood Plan.

### **Policy BT12 – Securing a Suitable Mix of House Types, Tenures and Sizes in New Development**

Development of strategic sites such as the Asps are addressing a district wide housing need, in addition to any local housing need. Whilst Policy BT12 may, therefore, have appropriate application within the Village of Bishop's Tachbrook, seeking to apply outputs from a village survey onto the wider strategic development of the Asps which is addressing a different housing requirement, is inappropriate. The Policy should be amended to reflect the different nature of the strategic local plan allocations, subject to Local Plan policies H2 and H4, from any development within the Village. Failure to do so would cause potential conflict with Basic Condition e).

### **Policy BT13 – Responding to Climate Change**

This Policy as drafted is unclear. It establishes itself as a climate change policy, but also addresses more general design matters. Fundamentally however, there is nothing within this policy which actually adds anything of a local or Bishop's Tachbrook context beyond that already covered by NPPF and the Local Plan policy BE1, beyond possibly the reference to roof suitability for attaching renewable technology.

The first paragraph makes reference to the District Council's commitment to reducing carbon emissions and takes recommendations made in policy CC1 and BE1 of the Local Plan, whilst also repeating the NPPF's content at paragraph 129 for the requirement to utilise Building for Life. The recommendations of the second paragraph are largely covered within the Local Plan policies CC1, FW1, NE5; and the third paragraph states that certain contributions to specific 'issues' will be supported but it is unclear whether these are standalone proposals or whether developers will be expected to address these 'issues' as part of general development, and if so, this has not been costed for viability.

The policy has not demonstrated the need for setting higher standards than those of the Local Plan or Building Regulations and importantly, has not been robustly tested for viability. It seeks to deliver requirements that are over and above Building Regulations and the Local Plan, and it is unclear whether it meets the tests of being necessary, directly related or fairly and reasonably related in scale and kind to development.

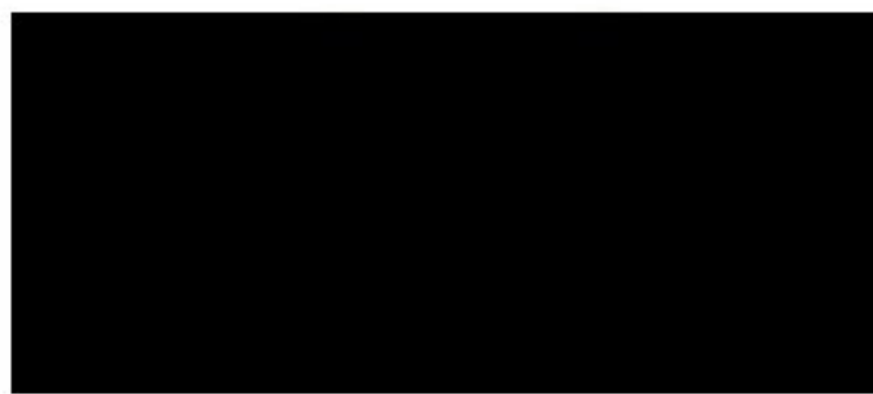
It should also be noted that Section 43 of the Deregulation Act 2015 amends the Planning and Energy Act 2008, whereby development plan documents cannot seek energy efficiency standards that exceed the energy requirements of building regulations for the construction or adaptation of dwellings. Therefore, emerging Plans should not set any additional technical standards or requirements relating to the construction, internal layout or performance of new dwellings; and this will remain with Building Regulations.

The NPPF establishes at paragraph 125 that Neighbourhood Plans '*can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development*'. In this case, however, the Plan does not provide local analysis or explore the special qualities that exist locally, or how they should be reflected in development. Rather, the Policy as drafted only repeats elements of Local Plan BE1 and NPPF. In so doing, the Policy does not address Basic Condition a) and e), and it is recommended for deletion.

### **Summary**

As noted in opening, Barwood welcomes the opportunity to continually engage in the plan making process. Their principal concern is that the Plan should not establish unrealistic expectations as to what additionally may be delivered from the Asps development, over and above the content of the consented scheme.

Yours sincerely



**KEITH FENWICK MRTPI**

SENIOR DIRECTOR