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Your Ref:

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Date: 22 April 2021

Planning Policy
Mendip District Council
Council Officers
Cannards Grave Road
Shepton Mallet
Somerset
BA4 5BT

Dear Sirs

NORTON ST PHILIP NEIGHBOURHOOD PLAN CONSULTATION ON FURTHER MODIFICATIONS

With reference to the above consultation, I am writing on behalf of Bell Hill Garage Ltd (BHG), who have engaged fully in the Neighbourhood Plan preparation process through its various consultation stages and subsequent Examination. For reasons that are set out in brief below, my clients object to the further modifications.

BHG's objections are for similar reasons to those set out in some detail and elegance in the objection from Lochailort Investments Limited dated 13th April 2021. Rather than repeat the same points in the same detail, BHG will simply summarise their concerns as follows:

Scope of Current Consultation

The attempt to restrict the scope of the consultation to comments on the proposed further modifications is erroneous. The consultation exercise has therefore proceeded on a misleading and unlawful basis. The consultation should therefore be re-run with the scope properly defined, and in particular to confirm that it provides the opportunity for parties to comment on any other matter that they consider appropriate.

The Basic Conditions

The Plan fails to meet the 'basic conditions' given the material changes in circumstances since the July 2019 Examiner's Report, and in particular:

- The adopted Local Plan exceeding its review date, and the consequential inability of the local planning authority to demonstrate a five year supply of deliverable housing land assessed against the standard method, resulting in a serious shortfall and compelling need to bring forward additional land for housing.
- The constraints across a substantial part of the district owing to the water quality issues, meaning that settlements in the north east of the district must perform an enhanced role in delivering sustainable development, and in particular in alleviating the current acute shortfall in the supply of deliverable housing land.
- The Council's commitment to an immediate review of the Development Plan as a whole, with the imperative to avoid constraints that could frustrate the delivery of sustainable development.

In consequence, it is imperative that the LGS designations in the NP must be reconsidered to ascertain whether they are consistent with the local planning of sustainable development and capable of enduring beyond the now very limited plan period.

Conformity between Plans

In earlier representations BHG highlighted the potential for conflict between the Local Plan and the NP¹. The conflicting reports of the respective Examiners in relation to the LGS designations having regard to essentially the same evidence base, has brought that conflict into sharp focus. BHG previously outlined the risk of either the LGS provisions in the NP being immediately superseded upon subsequent adoption of MLPP2, or not being in conformity with the MLPP2 if adopted after it given the removal of the LGS designations from MLPP2 in order to find it sound. It is untenable to simply ignore the findings of the MLPP2 Inspector simply because the NP Examiner's findings relating to the same designations and based on the same evidence, are to be preferred.

It is clear that the LGS designations fail to satisfy the tests set out in the NPPF, and therefore to comply with the 'only' circumstances under which they can be used². Whilst appreciating that there is a reduced burden on the NP Examiner only to have regard to the NPPF, that does not legitimise the inclusion of designations that have been found to be in flagrant conflict with the NPPF, as confirmed following much the more forensic examination of the same evidence by the MLPP2 Inspector. Indeed, unlike the designations in MLPP2, the same designations in the NP were not subject to proper and robust scrutiny in a public hearing.

BHG are therefore in complete agreement with Lochailort Investments Ltd that the proper use of the LGS designations, which is on an 'exceptional' basis, has not been considered through the proposed further modifications to the draft NP. As confirmed by the MLPP2 Inspector, they have not been used 'sparingly' as required, and have not been shown to be 'demonstrably special' or to hold a 'particular local significance'. On the contrary, as previously submitted on behalf of BHG and endorsed by Lochailort, the

¹ See representations on behalf of BHG to Regulation 16 Consultation and letter to MDC dated 5th August 2019 in respect of Cabinet meeting on that date

² NPPF, para. 100



draft plan's approach is to use them to impose blanket restraints on undeveloped land around the village. That is particularly the case relating to LGS NSP003 relating to the Great Orchard which has no public access, is little visible other than from its immediate proximity, and in any event, is satisfactorily protected by other designations. As endorsed by the MLPP2 Inspector, this designation should therefore be deleted from the NP to bring it into conformity with the Local Plan. Failure to do so will result in the Plan being inconsistent with both the NPPF and the Local Plan, and, *ipso facto*, failing in its duty to meet the basic conditions.

Should the LGS designations not be deleted from the NP, then the Plan must be subject to re-examination. Failure to do so would render it unsafe, and potentially subject to a further statutory challenge.

Yours faithfully



Dr Thomas S Roche

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Director