

Carter Jonas

WRITTEN STATEMENT FOR MATTER SC4C

DAVISON GROUP

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL ID: 17480

November 2016

Matter SC4C

Do all of the sites designated by Policies NH/11, NH/12 and NH/13 meet the objectives/criteria relevant to the respective designations for safeguarding the land in respect of future development?

Background

1. The Davison Group has objected to the proposed designation of allotment land at Meadow Drift, Elsworth as Local Green Space (LGS) under Policy NH/12 in the submission draft of the emerging South Cambridgeshire Local Plan. The site has been given the reference NH/12-057 by SCDC and a copy of the representation is attached to this written statement as **Appendix A**.

2. Appendix D accompanying the report to the Planning PFH of the 10th March 2015 provides a record of the Council's assessment of sites proposed as LGS in the emerging Local Plan. The following is worth noting in relation to NH/12-057 (page 12):

- a. The site was not identified as potential LGS in the Council's 2012 assessment;
- b. The Council's 2013 assessment states that the site was '*submitted by Parish Council. Valued community asset providing recreational use for the village. Meets the tests for LGS*'. However, there is no record of the assessment that was undertaken to support the statement that the site meets the tests for LGS;
- c. The Council's response to the objection is stated as '*The site was previously assessed as meeting the tests for LGS and therefore unless new issues have been raised that affect the assessment or it has been shown that circumstances have changed the Council remains of the opinion that the site designation should remain in the plan*'. As there is no record of the site's assessment against the relevant tests in the first place, it is difficult to judge how the site may reasonably be re-assessed in the light of the objection to the proposed designation.

3. There is no record of the Council assessing the site against the tests set out in paragraph 77 of the NPPF; whether in support of the proposed designation in 2013 or subsequently in response to the objection that was made in order to inform the report to the PFH in March 2015. The evidence base supporting the proposed designation of the site is clearly lacking and consequently there is no sound basis for the conclusion reached in 2013 and subsequently in 2015 that the site warrants LGS designation. Indeed, there was no apparent endeavour on the part of the Council to address the particular points raised in the representation objecting to the proposed designation which provided an assessment of the site against the NPPF tests.

4. Given that the NPPF indicates that the management of development within defined LGS should be consistent with policy for Green Belts (paragraph 78) and similarly endure beyond the end of the plan period (paragraph 76) it is essential that the identification of sites should be undertaken with particular rigour against the NPPF tests and that the decisions accorded should be a matter of clear public record. This is not the case in respect of site NH/12-057 and consequently the proposal to designate the land as LGS cannot be regarded as sound.

Issue (i)

i. Does the wording of Policy NH/12 properly reflect paragraph 78 of the National Planning Policy Framework as any future proposal for development within a Local Green Space (LGS) would be subject

to the very special circumstances test once a LGS has been designated? (For the benefit of doubt, the annotation "LGS designation" in the questions below refers to proposed designations in the Plan)

5. Policy NH/12 of the submitted Local plan states that:

'Local Green Space identified on the Policies Map will be protected from development that would adversely impact on the character and particular local significance placed on such green areas which make them valued by their local community. Only in exceptional circumstances and in discussion with the local community would development be permitted.'

6. Paragraph 78 of the NPPF states that:

'Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.'

7. It is clear that the draft policy does not accord with the Government's guidance in paragraph 78 of the NPPF. The approach to the management of development within Green Belt is provided in paragraphs 87-91 of the NPPF. Paragraph 87 in particular states that:

'As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'

8. The draft policy confuses terminology used in the NPPF, 'exceptional circumstances' relate to the designation of new areas of Green Belt or changes to the boundaries of existing Green Belts, not the management of development within a Green Belt where 'very special circumstances' must be demonstrated.

9. Furthermore, to properly reflect the requirement in paragraph 78 of the NPPF, the draft policy should acknowledge that it is only 'inappropriate development' that would be harmful to a LGS. In paragraph 89 the NPPF lists exceptions to this presumption that by definition are not 'inappropriate development' and therefore should be acceptable in principle within a defined LGS.

10. In conclusion the draft policy is flawed, failing to properly reflect the intent of national planning policy as set out in the NPPF. It is consequently unsound.

Issue (xiv)

xiv. Would the LGS designation of the allotment gardens on land at Meadow Drift, Elsworth be necessary or appropriate given that Policy SC9 of the Plan would provide adequate protection to the allotments from their loss or future development? (NH/12-057)

11. The proposed LGS designation of site NH/12-057 as LGS is not necessary, nor is it appropriate.

12. Policy SC/9 of the draft Local Plan states that:

'Planning Permission will not be granted for proposals resulting in the loss of land or buildings providing for recreational use or for the loss of allotments or community orchards except where:

a. They would be replaced by an area of equivalent or better quantity and quality and in a suitable location; or

b. The proposed development includes provision of open space, or sports and recreation facilities of sufficient benefit to outweigh the loss; or

c. An excess of provision in quantitative and qualitative terms is clearly demonstrated in all the functions played by the land or buildings to be lost, taking into account potential future demand and in consultation with local people and users.'

13. Subsequently, paragraphs 9.36 & 9.37 state that:

'Allotments and community orchards are important resources to have within a village and are valued by the local community – this is reflected in how many such sites are now designated as Local Green Space (see Chapter 6 - Policy NH/12 Local Green Space). The Council will resist development that adversely impacts on these green features.' (My underlining)

'There is demand for more allotments within the district and the Council would not want communities to lose existing allotments unless suitable replacement land can be provided that is acceptable to the local community.' (My underlining)

14. The supporting text to Policy SC/9 reflects a confusion over the appropriate role of LGS policy. The appropriate test that should be reflected in paragraph 9.36 is not *'development that adversely impacts'* but the test of *'inappropriate development'* in proper reflection of the advice in paragraph 78 of the NPPF. However, of greater import is the clear provision in Policy SC/9 and in paragraph 9.37 that allotment land may be lost to development *'... if suitable replacement land can be provided...'* This is an entirely reasonable and pragmatic approach that can lead to enhanced levels of allotment provision.

15. However, as a consequence, the draft Local Plan is contradictory. Where allotment land has been designated as LGS the proper policy approach in accordance with the NPPF would be that boundaries would be expected to endure beyond the plan period, changed only in exceptional circumstances; and that very special circumstances would need to be demonstrated to allow development. These tests arguably may well frustrate the delivery of enhanced allotment provision, particularly where the only basis for LGS designation is that the site is an allotment.

16. In conclusion, Policy SC/9 is a suitable and pragmatic policy approach that will provide protection to allotment land from development. However, it is undermined by the designation of allotments as LGS which introduces a significantly higher policy hurdle to be crossed if development is to be permitted in accordance with Policy NH/12, either as currently framed or as it should be properly framed to reflect the NPPF. Consequently the policy approach of the draft Local Plan is unsatisfactory and contradictory, failing to meet the requirement of the NPPF at paragraph 154 that *'Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.'*

Summary and Conclusions

17. The duly made representation (64911) attached as **Appendix A** clearly sets out an assessment of the objection site (NH/12-057) against the tests of paragraph 77 of the NPPF and the paragraph 182 tests of *'soundness'* as defined by the Council. It would seem that the only basis for the proposed LGS designation is the use of the land as allotments. Circumstances pertaining to this use are explained in the representation, attached as **Appendix B** are photographs of the site.

18. We demonstrate that the site does not meet the tests for LGS designation as set out in the NPPF. No part of the Council's evidence base serves to demonstrate otherwise.

19. Furthermore, we consider that draft Policy NH/12 is flawed, failing to properly reflect the intent of national planning policy as set out in the NPPF. In addition, the contradiction between draft Policies

NH/12 and SC/9 given the LGS designation of allotment land, in particular site NH/12-057, serves to create a circumstance whereby the draft Plan fails to meet the requirements of paragraph 154 of the NPPF.

20. To conclude, the objection site NH/12-057 does not meet the tests of paragraph 77 of the NPPF; draft Policy NH/12 is not consistent with paragraph 78 of the NPPF; and the relationship between draft Policies NH/12 and SC/9 is not consistent with paragraph 154 of the NPPF. The draft Local Plan must be considered unsound as presently drafted; the proposed LGS designation of the objection site NH/12-057 must be removed.

APPENDIX A

PLANNING

Jo Mills
Director of Planning & New Communities
South Cambridgeshire District Council
Cambourne Business Park
Cambourne
Cambridge CB23 6EA

24 November 2014

By Email

Dear Sir/Madam,

Land at Meadow Drift, Elsworth

I am writing on behalf of the Davison Group to object to the proposed designation of land at Meadow Drift, Elsworth as Local Green Space (LGS) for the following reasons:

- (1) It doesn't meet the development needs of the area;
- (2) There is a better alternative strategy;
- (3) It isn't consistent with national policy;
- (4) It won't work or is undeliverable.

If the Inspector determines that a Hearing Session on LGS designation is desirable, we would wish to appear before her on this matter.

Introduction

The District Council has designated approximately 0.36 ha of land situated at Meadow Drift, Elsworth as LGS in the submission draft of its new Local Plan. The site is not identified as a Protected Village Amenity Area (PVAA) within the extant LDF and the proposed designation would appear to have arisen as a consequence of promotion by the Parish Council (Appendix 5 of Sustainability Appraisal March 2014 (SA 2014)) in which the LPA assessment states:

'Submitted by Parish Council. Valued community asset providing recreational use for village. Meets the tests for LGS.'

Proposed LGS at Meadow Drift Elsworth

The land designated as LGS at Meadow Drift (LPA reference NH/12-057) is described as allotments in the SA 2014. It comprises 0.36 ha of land and falls entirely outside of the defined Village Framework (Inset 28 of the adopted LDF Proposals Map 2010).

However, the site frontage comprises a copse of approximately 0.07 ha in area which is not and never has been in use as allotments. The copse and land immediately to the rear falls within the designated Conservation Area (CA) in which there are strict controls upon the removal of trees and development. Land within the CA is approximately 0.16 Ha in area (44% of the LGS site area). The copse screens the land from public view. Of the land designated as LGS, 0.29 Ha would appear to be suitable for use as allotments and for the greater part is or has been in such use, several allotments are clearly disused.

The land is privately owned and use as allotments is allowed by the landowner by arrangement. The Parish Council has no locus in these arrangements. No rent is charged. The land is not serviced and there is no vehicular access or car parking provision. There is no public access to the site and there are no public rights of way across it. There are no public views across the site.

National Planning Policy Framework (NPPF)

The NPPF sets a number of 'tests' to determine if LGS designation is appropriate (paragraph 77). It states that LGS designation will not be appropriate for most green areas or open space; and that it should only be used in certain circumstances. These are noted below.

Where the green space is in reasonably close proximity to the community it serves.

It is acknowledged that the site is within close proximity to the village community, being immediately adjacent to the village development framework.

Where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historical significance, recreational value (including as a playing field) tranquillity or richness of its wildlife.

We do not consider the LGS to be demonstrably special to the community. The Council's justification appears to be that this is the case as the Parish Council has promoted the site's designation as LGS. This is not well founded; the availability of the allotments is not promoted via the village website or the village magazine (Elsworth Times). The designated site is not notable for its beauty, historical significance, tranquillity or wildlife. It has recreational value insofar as in part (see above) it is used for allotment purposes.

Where the green area concerned is local in character and is not an extensive tract of land.

It is acknowledged that the site is 'local in character' and is not an extensive tract of land.

Soundness

(1) *Doesn't meet the development needs of the area.*

The Council's Recreation and Open Space Study (ROSS) (July 2012) explains at paragraph 3.1 that the study is '... focussed on facilities that are genuinely available to the public'. This is further explained in definitions at paragraph 3.6 where the 1st bullet point states that areas not included are, 'outdoor sports, recreational and / or play facilities that are not, as a matter of policy and practice available for public use on a regular and frequent basis'. It is a matter of record that the Council excludes even

substantial and well used sporting open space from its assessment of recreational open space provision where it is not in public control or cannot be secured for public access in perpetuity.

On this basis alone and in the light of the above, the Council's practice would exclude the allotments from any consideration as meeting the development needs of the area. The site's ownership and practices relating to its management would preclude its inclusion in the ROSS from contributing towards meeting the standard for allotment provision in Elsworth. If the site fails to meet the requirements of the ROSS, it cannot be reasonably held that the site should be designated as LGS for its recreational value. To do so would be inconsistent.

We are also concerned at the apparent 'misrepresentation' of the site in the ROSS schedule, wherein the allotments are given a site area of 0.36 Ha; there is only 0.29 Ha of land that would be suitable for use as allotments. However, the standard of provision is also described as 'good'. Paragraphs 6.56-6.60 inclusive of the ROSS set out desirable facilities for allotments and it would be assumed that any assessment of quality would relate to these. It can be stated that the site does not provide for any of the facilities listed and so the categorisation of the site's quality as 'good' is questionable.

(2) *There is a better alternative strategy.*

The submitted Local Plan sets out a draft Policy SC/9 'Protection of Existing Areas, Allotments and Community Orchards'. This provides an acceptable policy approach towards the protection of such community facilities and which does not require the unnecessary high hurdle of demonstrating 'very special circumstances' as the application of LGS policy envisaged in the NPPF (paragraph 78) would suggest.

(3) *It isn't consistent with national policy.*

In this respect we would note that the policy test set out in the draft policy relating to the protection of LGS (Policy NH/12) is not in accord with Green Belt policy as set out in the NPPF. The exceptional circumstances test relates to the establishment of Green Belt in the first instance (paragraph 82) and changes to their proposed boundaries through the development plan process (paragraph 83).

(4) *It won't work or is undeliverable.*

It is apparent that the identification of the site as LGS is as a consequence of its use in part as allotments and therefore its recreational value. It has no other intrinsic qualities that would warrant LGS designation given the context provided by the NPPF. However, by the Council's own measure, as explained in the ROSS, the site cannot be regarded as contributing to provision as it is not '... as a matter of policy and practice available for public use on a regular and frequent basis'. The site is in private ownership and there is no mechanism in place that will enable its availability for such use in perpetuity. In short LGS designation will serve no purpose in securing the recreational use of the site for allotments, indeed, there is a distinct risk that this use may now be significantly curtailed or prevented altogether.



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Conclusion

The Council has identified tests derived from the NPPF against which the soundness of the proposed LGS designation of land at Meadow Drift has been assessed. It is quite apparent that the designation is not justified and indeed that the Council has been inconsistent in its approach towards the assessment of recreational open space and consequent designation as LGS. The site is in private ownership and there is no mechanism in place or proposed to secure use of the site for the public.

Furthermore, the relevant draft policy in the Local Plan (NH/12) does not accord with the NPPF; the assessment of the site's quality as allotments is not reflective of its circumstances; and there is a proposed policy (SC/9) that will serve to provide adequate protection of existing allotments from development.

Finally, LGS designation will not secure the allotments, indeed there is a distinct risk that their use for these purposes may be significantly curtailed or prevented altogether.

Enclosed with this letter is a completed objection form, I should be grateful if you would acknowledge receipt.

Yours faithfully

Encs: as above

Additional Sites Response Form – Please send this form to the Planning Officer, who will include it in the Local Green Space Register. This form, which includes a plan of the site, should be submitted with the completed Local Green Space Register Form, which includes a plan of the site.

For office use only
Representor number:
Representation number:

ART – Your comments (required)

Which Local Green Space do you wish to comment upon?

Site Ref. Number N412-057

If you object what would you like to happen?

Do you wish to

Support

Object

Do not designate as local green space

Amend site boundary

(It will help to consider your comments if you explain what change you would like to be made to the site proposed as local green space.)

Please use a separate form for each site.

It is important that your comments cover any information, evidence and any suggested change that you will wish the Council and the Inspector to consider. This is because there will not be a further opportunity to make comments as the examination process has now begun. Any further comments can only be made at the request of the Inspector who is examining the soundness of the Local Plan, based on matters she identifies for examination.

Your comments: Why do you support or object to the site?

If you would like to amend the site boundary please explain why and provide a map to show this change.

PLEASE SEE ATTACHED

PART – Additional information to help the inspector (optional)

The Local Plan was submitted to the Secretary of State in March 2014 and an independent planning Inspector has been appointed, Laura Graham. She is carrying out an independent examination of the Local Plan. Comments made during this consultation will be passed to the Inspector for consideration as part of the examination process. At the examination the inspector is required to consider whether the plan has been prepared in accordance with the relevant regulations and is 'sound'. Completing the following information is optional but would help the inspector.

<p>If you object it will help if you (The examination will consider whether the properly prepared against tests set out in the National Planning Policy Framework (part 2) if possible, please tick an</p>	<p>say why a b n s f</p>	<p><input checked="" type="checkbox"/> Doesn't meet the development needs of the area</p> <p><input checked="" type="checkbox"/> There is a better alternative strategy</p> <p><input type="checkbox"/> It won't work or is undesirable</p> <p><input checked="" type="checkbox"/> It isn't consistent with national policy</p> <p><input type="checkbox"/> It doesn't comply with the law</p>
<p><input type="checkbox"/></p>		<p>In writing only</p>
		<p>Appearance in person</p>
<p><i>at the discretion of the inspector.</i></p>		
<p>Summary of comments: If your comments are longer than 100 words, please summarise the main issues raised.</p>		
<p><i>PLEASE SEE ATTACHED</i></p>		

COMMENTS MUST BE RECEIVED BY 5PM ON MONDAY 1 DECEMBER 2014 TO:

- EMAIL:** ldf@scambs.gov.uk
- POST:** Jo Mills, Director of Planning and New Communities, South Cambridgeshire District Council, Cambourne Business Park, Cambridge, CB23 6EA
- BY HAND:** To the above postal address (office open Monday to Friday 8am-5.30pm).

If you need any further information or assistance in making comments please contact the Planning Policy Team on 03450 450 500 or email ldf@scambs.gov.uk.

APPENDIX B









