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24 January 2014

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Dear Sirs,

**NORTH DORSET DISTRICT COUNCIL LOCAL PLAN CONSULTATION
Representations on behalf of Welbeck Land**

We write on behalf of our client, Welbeck Strategic Land, who are part of the consortium of developers and landowners involved in the delivery of the Gillingham Strategic Site Allocation. The consortium comprises CG Fry and Son, Taylor Wimpey, the owners of Newhouse Farm and Welbeck Land.

It is to be noted that further representations have also been submitted by the consortium. Welbeck Land are submitting these additional representations to supplement the consortium representations in respect of matters pertinent to their specific land interests.

Welbeck Land's interest comprises land known as Ham Farm as shown on the enclosed plan.

It is our client's and the Council's common objective to deliver a high quality, viable development at Gillingham providing much needed housing in a high quality environment and delivering the infrastructure needed to meet the needs of the community. With this in mind, we feel that it would be useful to set out our concerns with the draft Local Plan which in its current drafting might, unintentionally, threaten the successful delivery of this objective. We would be grateful therefore if our views could be taken into account in further iterations of the plan.

It is our overarching view that the draft Local Plan, as currently worded, suffers from a lack of clarity and flexibility; it is overly repetitive, suffers from confusion of strategic and prescriptive policy and, in places, it is not sufficiently supported by objective evidence. The consequence of this is a potential lack of certainty in the application of the policies and a lack of flexibility in the Plan to adapt to unforeseen circumstances. These matters are crucial to the viability and deliverability of the Gillingham SSA.

We have therefore set out below our specific comments on the Local Plan for your consideration. These representations are made with reference to the requirements contained within the National Planning Policy Framework.

Practical Application of Policy –Flexibility

At the heart of the NPPF's presumption in favour of sustainable is the need for Local Plans to be flexible. Paragraph 14 sets out that, for plan-making sustainable development means that Local Plans should 'positively seek opportunities to meet the development needs of the area, and:

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'meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- specific policies in this Framework indicate development should be restricted.'*

The plan suffers generally from a lack of such flexibility, bringing into question the certainty that can be placed upon the policies by decision makers, applicants and third parties and bringing the soundness of the plan into question.

The SSA will be implemented over a 20 year period. It is essential therefore that development can respond to changing needs. Whilst it is important to identify strategic objectives for the SSA, the level of prescription in the draft policy can only serve to frustrate delivery by affording opportunities for challenge. Matters of specific detail should be left for determination at the application stage, which of course the Council retains full control over.

Issues with flexibility arise in part through confusion between the roles of different parts of the plan. The 'strategic' policies of the plan set out in chapters 1 -9 (amounting to approximately 230 pages) go beyond the 'aspirational and realistic' requirement set out at para 154 of the NPPF; many of the policies as drafted are unnecessarily prescriptive and are not adaptable to change.

These include, for example:

- **Policy 3** - An overly prescriptive approach to climate change and sustainability which specifies that a buildings should meet all criteria set out at (a) to (g). Notwithstanding the fact that there is considerable overlap with the Building Regulations, improving building performance and reducing carbon emissions should be taken as a balanced approach rather than a set of prescriptive criteria. No flexibility is provided in which of these objectives should be given priority.
- **Policy 13** – An overly prescriptive and perhaps unrealistic approach to infrastructure which gives no indication as to how the decision maker should react to specific proposals; the policy does not include flexibility to assess individual applications in terms of what infrastructure / contributions will be sought on a case by case basis. The policy doesn't allow for infrastructure requirements identified after the adoption of the plan.

Importantly, **Policy 21** – Gillingham Strategic Site Allocation (SSA) similarly reads as an inflexible policy with numerous duplicated prescriptive requirements. Lack of flexibility in the wording of the policy includes, for example:

- The inclusion of a detailed concept plan at P.245 and 'southern extension proposals map' (p.261) limits innovation and flexibility in the masterplanning process where the detailed positioning of uses, roadways, open space will be carefully assessed to respond flexibly to site conditions and changing circumstances;
- Specific space requirements for uses (e.g. recreation spaces – Policy 21 (cc) – (dd)) limit the ability to respond flexibly to changing requirements over time;
- Requirements to meet the 'Government's Zero Carbon Buildings policy' potentially limits the flexibility in delivering housing on the site;
- The requirements for infrastructure delivery and location are inflexible. For example, the requirement for the local centre to be positioned at Kingsmead Business Park and a new school should be positioned within it;
- Detailed highways requirements set out at Policy (s) to (x) do not allow for flexible adaptation and response to changing circumstances.

It is our view that, being a strategic policy, Policy 21 should simply set out clearly the aspirational and strategic requirements (i.e. the 'overarching vision') for the Gillingham SSA and, in accordance with the presumption in

favour of sustainable development, allow for a greater amount of flexibility to come forward through the master plan framework process and thereafter the application process. It is this layering effect which the plan, as currently drafted, fails to recognise.

In removing the inflexible requirements from Policy 21, the site's developers and the Council will be able to adapt quickly and responsively to any change in circumstances which might arise at a later stage through the masterplanning and planning application stages of the development. Where detailed policy is required on the form of development generally this should be set out in the detailed Development Management Policies, although even at this stage recognition of site specific circumstances is required.

A lack of flexibility in the policy requirements for the Gillingham SSA could potentially have significant impacts upon scheme viability. The NPPF sets out that '*pursuing sustainable development required careful attention to viability and costs in plan-making and decision taking. Plans should be deliverable*'. Inflexible requirements which do not allow adaptation, and might ultimately place additional financial burdens upon the development, can impact significantly upon scheme viability. The consequence of this might be the inability to deliver on certain aspects of the development, such as affordable housing, given the need to ensure the strategic infrastructure required to mitigate impacts arising from the scheme must be delivered (e.g. education).

Policies should be simplified to allow flexibility and adaptability whilst setting out the strategic and aspirational spatial vision for the District. This particularly includes Policy 21.

Practical Application of Policy –Clarity

It is important that Local Plan policies set out clearly what will or will not be permitted and where. The NPPF (paragraph 154) sets out that 'only policies that provide a clear indication of how a decision maker should react to a development proposals should be included within the plan'. In the absence of such clarity, the policies cannot be considered sound.

There are examples throughout the plan where there is a distinct lack of clarity and precision in the requirements of the policies. The Council should consider rewording several of these to make it clear to decision takers, applicants and third parties what is expected from development proposals

A particular example of this lack of clarity comes at **Policy 3** where no specific guidance is given on the generalised requirements set out at (a) to (g), such as reference to meeting or exceeding 'current national targets for energy performance'; there is no clear definition as what targets are referred to (one is perhaps left to assume it's the Building Regulations – which is self-regulatory).

Again, this lack of clarity likely arises from the unnecessary inclusion of overly prescriptive requirements of matters controlled by other legislation within policies which are intended to be strategic in nature. Greater flexibility and clarity would be provided if the 'strategic' policies (Policies 1 – 21) were concerned only with the Council's strategic aspirations for the District and avoided excessive prescription.

Where relevant and particularly within the Development Management Policies, reference should be made to specific targets and timescales, but should not look to control matters dealt with by other legislation (e.g. the Building Regulations).

Repetition within the Plan

A consequence of the overly prescriptive requirements of the strategic policies in the draft Local Plan is an excessive repetition within the plan, again resulting in a potential lack of clarity.

This is particular the case for **Policy 21** where requirements found elsewhere within the plan (e.g. Policy 3 – Climate Change, Policy 8 – Affordable Housing and the infrastructure policies 13,14 and 15) are repeated.

For clarity, Policy 21 should be revised to remove duplicate policy requirements. In consideration of planning application(s) for the SSA, the Council would in any case have to have regard to these other policies forming part of the Development Plan; their duplication is wholly unnecessary.

Lack of Clarity in the Role of the SSA Master Plan Framework

Policy 21 is unclear in respect of the role and function of the Master Plan Framework. The policy gives no certainty to the site developers in respect of the role, purpose and status of the master plan exercise to be submitted to the Council

The SSA can only be developed effectively with a co-ordinated approach based upon high-level strategic priorities and the need for a clear and phased subsequent master plan process is supported by our client. The master plan consultation exercises already carried out have been valuable and will be built upon in the master planning exercise.

However, we raise concern over the lack of clarity in the policy over the master planning requirements; firstly, over the flexibility available in the master planning exercise as a result of an overly prescriptive policy and secondly, over the lack of procedural clarity pertaining to the status of the master plan framework once agreed with the Council.

In respect of the first point, as currently drafted Policy 21 includes an unnecessarily high level of detail in relation to the layout of the SSA (in particular maps at p.261 and p.245) and details such as highway infrastructure and open space requirements. As above, to ensure flexibility, we suggest that such detailed matters would be better left to the master planning process which will be used to comprehensively consider the most desirable use and form of land across the SSA area and take on board local consultation. The policy reduces the flexibility available in the master planning process at present and could limit the best viable option coming forward. The Plan does not provide clarity as to whether a more appropriate (physical) form of development might be considered by the Council. For example, the master planning exercise might result in a more appropriate location for the proposed local centre and the position of any new school to meet currently anticipated needs.

Paragraph 157 of the NPPF requires no more from the Local Plan than to allocate land with flexibility in the uses of land 'and provide detail on form, scale, access and quantum of development where appropriate' (underlined for emphasis). There is no requirement therefore within the NPPF to provide the amount of prescription included within Policy 21 as matters of urban form, open space and infrastructure can be agreed through the master planning exercise.

What is important is that policy should give clear direction on strategic matters for the SSA implementation. For example key strategic infrastructure such as improvements to key highway junctions are essential to be brought forward in a timely manner to unlock development capacity. To cover the cost of this an early phase of development at Ham Farm is proposed (as identified in the revised policy wording in the Consortium Representations). Failure to do so could create investor uncertainty which can only serve to frustrate delivery.

In relation to the second point, the policy does not make it clear what status the masterplan framework would carry and therefore what weight it would hold at planning application stage. The only requirement is for the masterplan to be 'agreed' by the Council. This implies then that it could only be treated as an informal document and, assuming development plan compliance, subsequent planning applications could presumably vary from its contents. The lack of clarity here in the role of the masterplan raises uncertainties in the decision making process.

Comments on Specific Policy Approach to SSA – CIL Rating

In relation to **Policy 21** and the Gillingham SSA, paragraph 9.23 of the Local Plan indicates that:

“In so far as it is relevant, the Council will look to secure financial contributions through its charging schedule produced for the purposes of the Community Infrastructure Levy (CIL)”

We understand that the Council is currently in the process of preparing its Draft Community Infrastructure Levy Charging Schedule.

In our experience, for a large strategic allocation such as this where a large number of specific phased infrastructure requirements are generated over the course of the plan, there are advantages in exempting SSA development from CIL as a zero rated development with all types of infrastructure then secured through s.106.

The advantages of this approach to the Council and the local community would be:

- Increased certainty of delivery – the specific objectively assessed infrastructure requirements will be identified and delivery phased during construction of the SSA;
- Clear triggers for delivery – the timing of infrastructure delivery can be properly assessed so that infrastructure is delivered at the point that it is required with certainty. This allows for a phased approach to delivery of infrastructure throughout the SSA delivery over the Plan period; and
- Impact on SSA viability – certainty over the delivery of infrastructure throughout the life of the development allows for better development cost planning and reduces risk to site viability over the whole plan period.

Comments on Specific Policy Approach to SSA – Housing Delivery

As a general point **Policy 21** should treat the delivery of housing as a priority and set this out from the outset. The primary purpose of the allocation is to meet the District’s identified housing needs.

With this in mind, we question whether there is a need to include the proposed employment growth area to the south of Brickfields as being part of this SSA at all. The delivery of housing here is not, and should not, be aligned in anyway to further development at Brickfields. The two areas are physically separated by the B3092 New Road and it would be in the interests of proper planning to separate these areas as two separate allocations to give better certainty and clarity over the delivery of housing within the SSA.

Additionally, **Policy 21(k)** requires the masterplan ‘to show how the site will be developed with about 1,800 homes in total’ and **Policy 21(l)** requires it to:

“show how the delivery of housing will be phased over time making provision for about 1,240 homes to be delivered on the SSA in the period up to 2026, unless a different figure for the provision of housing within the plan period can be justified and agreed with the Council..”

We support the flexibility in housing delivery alluded to in this part of the policy, but suggest that it is reworded to provide certainty that 1,240 homes is not a cap on the number of homes to be brought forward within the plan period and that ‘about 1,800 homes’ should not be read as an overall cap on the SSA. To ‘boost significantly the supply of housing’ within the District there should be no implied cap on housing that can be delivered either within or beyond the Plan period.

Evidence Base Deficiency

The NPPF requires the plan to meet 'objectively assessed development and infrastructure requirements'; infrastructure requirements must be supported by an objective evidence base.

The Draft Local Plan suffers in this respect in relation to some of the infrastructure requirements identified in **Policies 13, 14, 15** and particularly **Policy 21**.

In relation to **Policy 21** these deficiencies in the evidence base include for example:

- Climate Change – 21(e) – there is no objective evidence in support of a 'district heating scheme';
- Transportation – 21(v) - there is a lack of objective evidence to support the need for contributions towards junction improvements between the B3081 and the A30 in Shaftesbury, some distance from the site. There is no objective evidence to support the railway station upgrade requirement;
- Other Grey Infrastructure – 21(y) – lack of objective evidence to support requirements for sewage and sewer works, utilities and telecommunications networks. These needs should be identified as part of the detailed assessment of proposals on the SSA;
- Social Infrastructure – The need for social infrastructure has not been objectively assessed (including the need for a 2 form entry school, nursery health facilities, community and sports facilities, allotments, fire station upgrade and extra care provision.

Evidence should be presented by the Council to demonstrate that all infrastructure requirements identified in the plan have been objectively assessed, otherwise they should be removed.

Conclusions - Consequences for Gillingham SSA Delivery

The Council recognise the importance of the Gillingham SSA identifying it as critical to the delivery of strategic objectives.

All of the matters identified above have the potential to impact upon the deliverability of the Gillingham SSA in terms of making the most effective use of the site and threatening its timely delivery.

The NPPF sets out that the '*sites and the scale of development identified in the plans should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened*' and that careful attention to viability must be paid in plan-making.

The scale of (largely un-evidenced) prescriptive requirements for the SSA have the potential to threaten viability in such a way, particularly as the requirements of the strategic policy might result in difficulty to adapt flexibly to changing circumstances throughout the plan period, such as a volatile housing market. Threats to viability could conceivably have unintended consequences in other regards, such as the provision of affordable housing.

As currently drafted, the prescriptive requirements for the SSA provide unnecessary mechanisms to support objections to future application for no other reason than commercial advantage. Rather than introducing inflexible requirements within the plan, prescriptive policy burdens should be reduced to allow for greater flexibility to adapt to changing conditions, allowing specific infrastructure requirements to be identified and delivered at the appropriate point.

As noted above, certainty in the delivery of the site would be better improved if the employment allocation land, particularly to the south of Brickfields, was separated from the SSA. The Gillingham SSA should be

focused on the delivery of housing to meet the identified needs of the District and there is no reason to tie this to the adjacent employment allocation.

We would therefore be grateful if you could take the above as our formal comments on the Draft Local Plan and take these comments into account in reviewing and correcting the emerging Plan. Please contact either Will Edmonds or Patrick Reedman on the above number to discuss these representations further.

Yours faithfully

MONTAGU EVANS LLP

MONTAGU EVANS

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Batch number: _____ Received: _____
Representor ID # _____ Ack: _____
Representation # _____



North Dorset Local Plan Part 1

Pre-submission Consultation 29 November 2013 to 24 January 2014

Regulation 19 of Town and Country Planning (Local Planning) (England) Regulations 2012)

Response Form

For each representation you wish to make a separate response form will need to be completed.

This is a formal consultation on the legal compliance and soundness of the Local Plan before it is submitted to the Secretary of State for examination by an Inspector. For advice on how to respond to the consultation and fill in this form please see the 'Guidance Notes for Making Representations' that can be found on the Council's website at www.dorsetforyou.com/planning/north-dorset/planning-policy

Please return completed forms to:

Email: planningpolicy@north-dorset.gov.uk

Post: Planning Policy, North Dorset District Council, Nordon, Salisbury Road, Blandford Forum, Dorset DT11 7LL

Alternatively you can submit your comments online at: www.surveymonkey.com/s/NorthDorsetLocalPlan

Deadline: 5pm on 24 January 2014. Representations received after this time may not be accepted.

Part A – Personal details

This part of the form must be completed by all people making representations as **anonymous comments cannot be accepted**. Representations cannot be treated in confidence as Regulation 22 of the Town and County Planning (Local Planning) (England) Regulations 2012 requires copies of all representations to be made publically available. By submitting this response form on the pre-submission North Dorset Local Plan Part 1 you consent to your information being disclosed to third parties for this purpose, but signatures, private telephone numbers and e-mail addresses or private addresses will not be visible on our web site, although they will be shown on paper copies that will be sent to the Inspector and available for inspection.

*If an agent is appointed, please complete only the Title, Name and Organisation boxes to the personal details but complete the full contact details of the agent. All correspondence will be sent to the agent.

Personal Details (if applicable)*	Agent's Details (if applicable)*
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Last Name	Edmonds
Job Title(<i>where relevant</i>)	Partner
Organisation (<i>where relevant</i>)	Montagu Evans LLP
Address	5 Bolton Street, London
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Part B – Representation

The North Dorset Local Plan 2011 to 2026 Part 1 and its supporting documents have been published in order for representations to be made prior to submission to the Secretary of State for examination. The purpose of the examination is to consider whether the Local Plan complies with the **legal requirements** and is **'sound'**.

If you are seeking to make a representation on the **way** in which documents have been prepared it is likely that your comments or objections will relate to a matter of **legal compliance**.

If you are seeking to make representations on the **content** of the documents it is likely that your comments or objections relate to the **soundness** of the plans and whether it is justified, effective or consistent with national policy.

Further information on the matter of legal compliance and the issue of soundness can be found in the 'Guidance Notes for Making Representations'.

If you need help completing the response form please see a member of the Planning Policy Team at one of the consultation exhibitions or call 01258 484201.

1. Please select which document you are commenting on:

- North Dorset Local Plan 2011 to 2026 Part 1 (please complete Questions 2 to 9)
- Final Sustainability Appraisal Report (please complete Questions 2 and 10)
- Habitats Regulations Assessment (please complete Questions 2 and 10)

2. Please state the part of that document you are commenting on:

Paragraph number:	Policy/site:	Policies map:
See attached representations		

3. Do you consider the Local Plan to be legally compliant and prepared in accordance with the Duty to Cooperate, legal and procedural requirements?

- Yes No

4. Do you consider the Local Plan to be 'sound'?

- Yes No

5. If you consider the Local Plan to be unsound please specify your reason(s) by ticking the box(es) that apply below

- It has not been positively prepared
- It is not justified
- It is not effective
- It is not consistent with national policy

6. Please give specific details of why you consider the Local Plan has not been prepared in accordance with the Duty to Co-operate, legal or procedural requirement or why you consider the plan to be **unsound**. Alternatively, if you wish to support any aspects of the plan please also use this box to set out your comments.

See attached representations

7. What change(s) do you consider are necessary to ensure that the Local Plan is legally compliant and **sound**? It would be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

See attached representations

8. If your representation is seeking a change, do you consider it necessary to participate in the oral part of the examination?

- No, I do not wish to participate in the oral examination
- Yes, I would like to participate in the oral examination

9. If you wish to participate in the oral part of the examination please outline why you consider that to be necessary. Please note that the Inspector determines who is heard at the examination.

See attached representations

10. Please outline your comments on the Final Sustainability Appraisal Report or Habitats Regulations Assessment. Comments are not confined to 'soundness' issues, but respondents can express their opinions on the above documents and use it as a reference point on the 'soundness' of the Local Plan.

11. Do you wish to be notified of any of the following? Please tick all that apply. We will contact you using the details you have given above.

- That the Local Plan Part 1 has been submitted for independent examination
- The publication of the recommendations of any person appointed to carry out an independent examination of the Local Plan Part 1
- The adoption of the Local Plan Part 1.

Signature: _____

Date: 24/01/2014

If submitting the form electronically, no signature is required.

Submit Form

This button should attach your form to a pre-addressed email, if it does not, please save the form and send it to planningpolicy@north-dorset.gov.uk