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Planning and Development Services

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19th May 2016

Jane Seaman, Clerk
Chelveston-cum-Caldecott Parish Council
Caldecott
Wellingborough
Northamptonshire
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By post and email: clerk@ndp.chelveston.org.uk

Dear Ms. Seaman

CHELVESTON-CUM-CALDECOTT NEIGHBOURHOOD PLAN POLICIES (MARCH 2016)

On behalf of the site owners, we are writing to you in response to the current consultation on the draft Chelveston-Cum-Caldecott Neighbourhood Plan Policies (March 2016). This letter sets out our clients' formal objections and suggested amendments to the Plan prior to its submission for Examination.

As set out in Section 38B of the Planning and Compulsory Purchase Act 2004, the Neighbourhood Plan must meet the following requirements in order to proceed to Referendum:

- The Plan must specify the period to which it has effect;
- The Plan must not include provision about development that is excluded development; and
- The Plan must not relate to more than one Neighbourhood Area.

It is to the above requirements that these representations predominantly relate. However, I will begin with a brief description of our client's landed interests at Chelveston Renewable Energy Park, the relevant planning policy framework for the site, and the content of previous representations made to the Neighbourhood Plan to date.

The Site

Chelveston Renewable Energy Park occupies the site of the former Chelveston Airfield, which has a long history of military use, development and occupation before being sold by the Ministry of Defence to the current site owners in 2005. Since this time, the site now accommodates a number of successful operations for large scale renewable energy generation, thus helping to meet Central Government energy objectives. Only about half of the former airfield is, of course, covered by the draft Neighbourhood Plan.

The continued success of the site is of paramount importance both regionally and nationally and as such a flexible and positive approach to the site must be adopted in policy at all levels, including the Neighbourhood Plan.

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Policy Framework

At the national level, the National Planning Policy Framework (NPPF) places a strong emphasis upon renewable energy generation, with the core planning principles explicitly supporting the transition to a low carbon future that encourages the use of renewable resources and energy. Indeed, paragraph 93 of the NPPF states that the delivery of renewable and low carbon energy and associated infrastructure is central to the economic, social and environmental dimensions of sustainable development.

At the local level, both policy CP26 of the adopted Bedford Development Framework (2008) and policy 14 of the adopted North Northamptonshire Core Spatial Strategy (2008) seek to meet demand for energy through renewable sources. Emerging policy also supports proposals for renewable and low carbon energy generation subject to its sensitive siting.

Previous Representations

Representations to previous versions of the Neighbourhood Plan were submitted on behalf of the owners in August 2014 and January 2015. In summary:

- **August 2014** – Representations were submitted to the first draft of the Neighbourhood Plan in order to promote provision for additional renewable energy development at the site; to request that the Renewable Energy Site designation cover the whole of the former airfield; and to seek the allocation of the land adjacent to Chelston Rise for employment and / or residential development to meet local employment and housing needs.
- **January 2015** – Representations were subsequently submitted to a further draft of the Neighbourhood Plan in order to object to the treatment of the former airfield as greenfield land; object to the lack of provision for other related uses; and to object to undue restrictions on new buildings and development near Chelveston Rise.

Whilst our client is grateful for the amendments that have been made to draft policies REN and REN1 to date, there still remains a number of outstanding issues to address before the Neighbourhood Plan can proceed to Referendum. I will now consider these in turn.

Outstanding Areas of Concern

Previously Developed Land

Our client has previously objected to the treatment of the former airfield as greenfield land within policy REN1. The NPPF defines previously developed land (PDL) as *“land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure”*.¹ Exclusions to this include *“land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time”*.²

Clearly the site has and continues to be occupied by a number of permanent and significant structures. Whilst some of the historical structures have since been demolished, some remain both within and on the periphery of the site alongside their associated fixed surface infrastructure. Moreover, the site has been redeveloped in recent years with wind turbines, solar arrays and waste management activities associated with power production. There is no authority for the view expressed in the Neighbourhood Plan that these structures should effectively be disregarded on the basis that the current planning permissions are based on the assumption of a 25-year life (itself a period which extends well beyond the planning horizon of the

¹ NPPF, Annex 2: Glossary, page 55

² *ibid*

Neighbourhood Plan – a matter which relates to the requirements of Section 36B of the Town and Country Planning Act 2004).

It is appropriate to categorise the entire site as PDL on the basis that there is an intimate association between the existing buildings and structures on-site, and the site's wider use as a renewable energy park. Any land which does not directly contain a building or structure nevertheless remains within the curtilage of that which does. Indeed, case law has determined that the particular definition of what constitutes curtilage will always be a question of fact and degree; and that whilst in any given instance it will be necessary to have regard to all the circumstances, it cannot be assumed that curtilage is necessarily limited in extent³ – “It is enough that it serves the purpose of the house or building in some necessary or useful way”.⁴ This “intimate association” requires the additional land or buildings to serve the principal use of the subject land or buildings.⁵

As set out above, it is inherently clear that the entire site constitutes one single planning unit which now serves the principal use of the land as a renewable energy park including waste management activities. The entire site should therefore be categorised as PDL and the plan on page 81 of the draft Neighbourhood Plan amended accordingly.

Related or Ancillary Activities

One of the requirements of a Neighbourhood Plan, as set out in Section 38B of the Planning and Compulsory Purchase Act 2004, is that it must not include provision about development that is “*excluded development*”. In other words, the Neighbourhood Plan must be positively prepared with policies that represent the balancing and “*cost/benefit*” approach of the NPPF.⁶

In this regard, our client has previously objected to criterion E of policy REN1 on the basis that the Neighbourhood Plan should not seek to prohibit development but rather should actively make provision for employment and commercial activities which support the existing renewable energy production and waste management activities, thus helping to maximise the contribution it is able to make to achieving national and local objectives. Furthermore, subsections (i) and (ii) of criterion G also explicitly exclude further types of development.

It is therefore necessary to amend policy REN1 to state that general employment and other commercial uses associated with the renewable energy park will be supported where they are proven to be acceptable in planning terms.

Promote Further Renewable Development

In a similar vein to the above, references to excluded development within policy REN are not appropriate either. As currently drafted, policy REN states that the Parish “*will not support*” a number of renewable energy developments on-site (including further wind turbine installations and the expansion of the waste management / anaerobic digestion facilities) which result in specified impacts.

However, this approach fails to allow for the necessary planning balance exercise that should be undertaken when determining all applications to consider the potential for other material considerations which may outweigh the potential adverse impacts of development.

It is not therefore appropriate for policy REN to exclude development. Rather, policy REN should be reworded positively to allow further renewable energy development and waste management activities where it can be demonstrated to be acceptable in planning terms.

³ Alan Dyer v Dorset County Council (1988) WL 622738 and Skerritts of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions (2000)

⁴ Sinclair-Lockhart's Trustees v Central Land Board (1949-51) 1 P. & C.R. 195, pages 1-2

⁵ Methuen-Campbell v Walters (1978), pages 543-544

⁶ Colman v. Secretary of State for Communities and Local Government [2013] EWHC 1138 (Admin)

Summary and Conclusions

Overall, the owners are supportive of the recognition of the Chelveston Renewable Energy Park within the emerging Neighbourhood Plan. However, to ensure that the park can continue to develop and operate successfully, and for the Neighbourhood Plan to meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004, the following amendments are required:

- The entire site should be categorised as PDL with the associated site plan amended accordingly;
- Policy REN1 should be amended to state that general employment and other commercial uses associated with the renewable energy park will be supported where they are proven to be acceptable in planning terms; and
- Policy REN should be reworded positively to allow further renewable energy development and waste management activities on-site where it can be demonstrated to be acceptable in planning terms.

I trust that these representations will be taken into account when progressing with the preparation and examination of the Neighbourhood Plan. Chelveston Renewable Energy Park remains an important site for meeting both local and national energy objectives and as such its future development must not be hindered by undue policy constraints.

With kind regards

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Cc. Cllr Andrew Seaman (Chair) – by email only
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Enc. Previous Representations